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REVISED STATUTES

OF

ONTARIO, 1980

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
REVISION ACT, 1979

VOL. 2

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER

REVISED STATUTES OF ONTARIO, 1980

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CHAPTER 94

Corporation Securities Registration Act

1. In this Act,

Interpre-
tation

- (a) “assignment of book debts” includes every legal or equitable assignment by way of security of book debts and every mortgage or other charge upon book debts;
- (b) “assignor” means a corporation that makes an assignment of book debts;
- (c) “book debts” means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
- (d) “chattels” means goods and chattels capable of complete transfer by delivery, and includes, when separately assigned or charged, fixtures and growing crops, but does not include chattel interests in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, or growing crops when assigned with any interest in the land on which they grow, or a ship or vessel registered under the laws of Canada or any share in such ship or vessel, or shares or interests in the stock, funds or securities of a government, or in the capital of a corporation, or book debts or other choses in action;
- (e) “corporation” means a corporation wherever or however incorporated;
- (f) “creditors” means creditors of the mortgagor or assignor, whether execution creditors or not, who become creditors before the registration of the mortgage, charge or assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the

R.S.C. 1970,
cc. B-3, W-10

Bankruptcy Act (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding up of companies, without regard to the time when the creditor so suing becomes a creditor or when the assignee, trustee or liquidator is appointed;

- (g) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (h) "mortgagor" includes a corporation that executes a charge, and "mortgagee" includes a person in whose favour a charge is created;
- (i) "subsequent purchasers or mortgagees" includes a person who obtains, whether by way of purchase, mortgage, charge or assignment, an interest in chattels or book debts that have already been mortgaged, charged or assigned. R.S.O. 1970, c. 88, s. 1.

Instruments
to be
registered

2.—(1) Every mortgage and every charge, whether specific or floating, of chattels in Ontario created by a corporation, and every assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in Ontario and contained,

- (a) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation; or
- (b) in any bonds, debentures or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing the bonds, debentures or debenture stock of any other corporation; or
- (c) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument,

is void as against creditors of the mortgagor or assignor, and as against subsequent purchasers or mortgagees from or under the mortgagor or assignor, in good faith, for valuable consideration and without notice, unless it is duly registered, and unless, if contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, it complies with subsection (2).

(2) If the mortgage, charge or assignment is contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, the instrument containing it shall be accompanied by an affidavit of the mortgagee, trustee, or grantee or one of the mortgagees, trustees or grantees, his or their agent, or, if the mortgagee, trustee or grantee is a corporation, of any officer or agent of the corporation, stating that the instrument containing the mortgage, charge or assignment was executed in good faith and for the purpose of securing payment of the bonds, debentures or debenture stock referred to therein and not for the mere purpose of protecting the chattels or book debts therein mentioned against the creditors of the mortgagor or assignor or preventing such creditors from obtaining payment of any claim against the mortgagor or assignor.

Affidavit of
bona fides

(3) A mortgage, charge or assignment required to be registered under this Act shall, as against creditors and the subsequent purchasers or mortgagees referred to in subsection (1), take effect only from the time of its registration.

When charge
to take effect

3.—(1) Registration of every mortgage, charge or assignment shall, except as provided by subsection (2), be effected by filing with the Minister a duplicate original of the instrument containing the mortgage, charge or assignment, together with the affidavit required by subsection 2 (2), and an affidavit made by an officer or agent of the mortgagor or assignor stating the date of the execution of the instrument by the mortgagor or assignor, within thirty days from the date of the execution of the instrument.

Registration,
mode

(2) Registration of every mortgage, charge or assignment, contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, shall be effected by filing with the Minister, within thirty days after the execution of the bonds, debentures or debenture stock, an affidavit made by an officer or agent of the mortgagor or assignor, setting forth,

Registration
when charge
in bond, etc.

- (a) the total amount secured by the bonds, debentures or series thereof, or debenture stock;
- (b) a true copy of the bond or debenture or of one bond or debenture of the series or of the debenture stock certificate; and
- (c) the date of execution. R.S.O. 1970, c. 88, s. 3.

Affidavit of
corporation
officer

4. Any affidavit made for the purposes of this Act by an officer or agent of a corporation shall state that the deponent is aware of the circumstances connected with the transaction and has a personal knowledge of the facts deposed to. R.S.O. 1970, c. 88, s. 4.

Time
expiring on
holiday

5. When the time for filing an instrument containing a mortgage, charge or assignment, or an affidavit, expires on a Sunday or other day on which the office of the Minister is closed, the filing is, so far as regards the time of filing, valid if made on the next following day on which the office is open. R.S.O. 1970, c. 88, s. 5.

Minutes of
registration

6. The Minister shall cause every instrument containing a mortgage, charge or assignment, and every affidavit filed in his office under this Act to be numbered, to be endorsed with a memorandum of the day, hour and minute of its filing and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the mortgage, charge or assignment, the date of execution of the instrument containing the same or of the bonds, debentures or debenture stock not secured by separate instrument, as shown by the affidavit filed, and the date of filing and the amount secured as shown by the instrument or by the affidavit. R.S.O. 1970, c. 88, s. 6.

Rectifica-
tion of
omissions
and mis-
statements

7.—(1) Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, a judge of the Supreme Court, on being satisfied that the omission to file an instrument or affidavit within the time prescribed by this Act or any omission or misstatement in any document filed under this Act was accidental or due to inadvertence or impossibility or other sufficient cause, may, in his discretion, extend the time for registration, or order the omission or misstatement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing, as he thinks fit to direct.

Idem

(2) The order or a copy thereof shall be annexed to the instrument or affidavit or document or copy thereof on file or tendered for filing, and appropriate entries shall be made in the register. R.S.O. 1970, c. 88, s. 7.

Defects
and irregu-
larities

8. No defect or irregularity in the execution of an instrument containing a mortgage, charge or assignment, and no defect, irregularity or omission in an affidavit, and no error of a clerical nature or in an immaterial or non-essential part invalidates or destroys the effect of the mortgage, charge or assignment or the registration thereof, unless, in the opinion

of the court or judge before whom a question relating thereto is tried, such defect, irregularity, omission or error has actually misled a person whose interests are affected by the mortgage, charge or assignment. R.S.O. 1970, c. 88, s. 8.

9.—(1) An assignment of a mortgage or of a charge of Assignments chattels or of an assignment of book debts within this Act need not, but may, be filed with the Minister.

(2) A mortgage or charge or assignment of book debts Discharges and partial discharges registered under this Act may be discharged in whole or in part by filing with the Minister a certificate of discharge signed by the mortgagee, trustee, or assignee, his or its executors, administrators, successors or assigns, and, except in the case of a certificate of discharge executed by a corporation under its corporate seal, the certificate shall be accompanied by the affidavit of an attesting witness of the execution thereof, but, in case a mortgage, charge or assignment of book debts has been assigned, no certificate of discharge by an assignee shall be filed until the assignment has been filed.

(3) In the case of a mortgage, charge or assignment contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, the Minister may, on evidence being given to his satisfaction that the debt for which the mortgage, charge or assignment was given as security has been paid or satisfied, enter a memorandum of discharge in the register, and shall, if required, furnish the corporation with a copy thereof. Discharge when charge on face of securities

(4) The Minister shall note the fact of such assignment or discharge against each entry in the books of his office Entry of assignment or discharge respecting the filing of the instrument or affidavit, and shall make a like notation upon that instrument or upon the affidavit filed under subsection 3 (2). R.S.O. 1970, c. 88, s. 9.

10.—(1) Upon payment of the prescribed fees, the Minister Certificate of filing shall give a certificate of the filing of any instrument or affidavit under this Act, and of the day and hour of the filing, and a certificate as to prior registrations, if any, of mortgages, charges or assignments created or made by the mortgagor or assignor. R.S.O. 1970, c. 88, s. 10 (1); 1971 (2nd sess.), c. 8, s. 1 (1).

(2) Every copy of a document filed under this Act, Certifying copies of documents certified by the Minister to be a true copy, shall be received in evidence in any action, prosecution or other proceeding as *prima facie* proof for all purposes as if the original document were produced and also as *prima facie* proof of the execution of the original document according to the purport of such copy.

Execution
of certifi-
cates

(3) A certificate issued under this section shall be under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the Lieutenant Governor in Council by regulation.

Certificate
as evidence

(4) A certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection (3) shall be received in evidence in any action, prosecution or other proceeding as *prima facie* proof of the facts so certified without proof of the seal or of the signature or the official position of the person appearing to have signed the certificate. 1971 (2nd sess.), c. 8, s. 1 (2); 1972, c. 1, s. 1.

Searches

11. Upon payment of the prescribed fees, every person shall have access to and is entitled to inspect the books of the Minister containing records or entries of mortgages, charges or assignments or documents registered or filed under this Act, and no person shall be required as a condition of his right thereto to disclose the name of the person in respect of whom such access or inspection is sought, and the Minister shall, upon request, accompanied by payment of the prescribed fees, produce for inspection any mortgage, charge, assignment or document so registered or filed. R.S.O. 1970, c. 88, s. 11.

Fees

12. For services under this Act, the Minister is entitled to receive such fees as the Lieutenant Governor in Council may prescribe. R.S.O. 1970, c. 88, s. 12.

Application
of Act

13. This Act applies only to mortgages or charges of chattels or assignments of book debts executed on or after the 30th day of May, 1932. R.S.O. 1970, c. 88, s. 13.

Charges
created
before
passing
of Act

14. A mortgage or charge of chattels or an assignment of book debts made before the 30th day of May, 1932, which if it had been executed on or after the 30th day of May, 1932, would be within this Act and which was properly registered or filed under any Act respecting the same, shall, notwithstanding anything contained in that Act or any other Act, not be required to be renewed. R.S.O. 1970, c. 88, s. 14.

R.S.O. 1980,
c. 375
not to apply

15. The *Personal Property Security Act* does not apply to a mortgage, charge or assignment whose registration is provided for in this Act. R.S.O. 1970, c. 88, s. 15.

CHAPTER 95

Corporations Act

1. In this Act,

Interpre-
tation

- (a) “books” includes loose-leaf books where reasonable precautions are taken against the misuse of them;
- (b) “Commission” means the Ontario Securities Commission;
- (c) “company” means a corporation with share capital;
- (d) “corporation” means a corporation with or without share capital, but in Part III “corporation” means a corporation without share capital;
- (e) “court” means the Supreme Court or the county or district court of the county or district in which the head office of the corporation is situate;
- (f) “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (g) “officer” means president, chairman of the board of directors, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, manager or any other person designated an officer by by-law of the corporation;
- (h) “private company” means a company as to which by its special Act, letters patent or supplementary letters patent,
 - (i) the right to transfer its shares is restricted,
 - (ii) the number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
 - (iii) any invitation to the public to subscribe for its shares or securities is prohibited;

- (i) "public company" means a company that is not a private company;
- (j) "registers" includes loose-leaf registers where reasonable precautions are taken against the misuse of them;
- (k) "securities" means the bonds, debentures, debenture stock or other like liabilities of a corporation whether constituting a charge on its property or not;
- (l) "special resolution" means a resolution passed by the directors and confirmed with or without variation by at least two-thirds of the votes cast at a general meeting of the shareholders or members of the corporation duly called for that purpose, or, in lieu of such confirmation, by the consent in writing of all the shareholders or members entitled to vote at such meeting. R.S.O. 1970, c. 89, s. 1.

Application

R.S.O. 1980,
cc. 54, 91

2. This Act does not apply to a company to which the *Business Corporations Act* or the *Co-operative Corporations Act* applies. R.S.O. 1970, c. 89, s. 2, *revised*.

PART I

CORPORATIONS, INCORPORATION AND NAME

Application

3. This Part, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Part does not apply to a corporation incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1970, c. 89, s. 3.

R.S.O. 1980,
c. 249

4.—(1) The Lieutenant Governor may in his discretion, ^{Incorporation by letters patent} by letters patent, issue a charter to any number of persons, not fewer than three, of eighteen or more years of age, who apply therefor, constituting them and any others who become shareholders or members of the corporation thereby created a corporation for any of the objects to which the authority of the Legislature extends, except those of railway and incline railway and street railway corporations and corporations within the meaning of the *Loan and Trust Corporations Act*. ^{R.S.O. 1980, c. 249} R.S.O. 1970, c. 89, s. 4 (1); 1971, c. 98, s. 4, Sched., par. 9.

(2) Notwithstanding subsection (1), where the objects for ^{Social clubs} which the corporation is to be incorporated are in whole or in part of a social nature, the number of applicants shall be not fewer than ten.

(3) Notwithstanding subsection (1), a private company may ^{Incorporation of private company with limited objects} be incorporated under this Act with power to lend and invest money on mortgage of real estate or otherwise, or with power to accept and execute the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accept the duty of and to act generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of the *Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the company, shall be limited by its letters patent or supplementary letters patent to five, two or more persons holding one or more shares jointly being counted as a single shareholder, and no such company shall issue securities except to its shareholders, or borrow money on the security of its property except from its shareholders, or receive money on deposit. R.S.O. 1970, c. 89, s. 4 (2, 3).

5. The Lieutenant Governor may in his discretion issue ^{Supplementary letters patent} supplementary letters patent to any corporation that applies therefor amending or otherwise altering or modifying its letters patent or prior supplementary letters patent. R.S.O. 1970, c. 89, s. 5.

6. The Minister may in his discretion and under the seal ^{Powers of Minister} of his office have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant Governor, but not those conferred on the Lieutenant Governor in Council. R.S.O. 1970, c. 89, s. 6.

Sufficiency
of material
to be
established

7. An applicant under this Act shall establish to the satisfaction of the Minister the sufficiency of the application and all documents filed therewith and shall furnish such evidence of the *bona fides* of the application as the Minister considers proper. R.S.O. 1970, c. 89, s. 7.

Proof under
oath

8. The Minister or any person in his ministry to whom an application is referred may take evidence under oath with respect thereto. R.S.O. 1970, c. 89, s. 8; 1972, c. 1, s. 2.

Variation
of terms of
application

9. On an application for letters patent, supplementary letters patent or an order, the Lieutenant Governor may give the corporation a name different from its proposed or existing name, may vary the objects or other provisions of the application and may impose such conditions as he considers proper. R.S.O. 1970, c. 89, s. 9.

Defects in
form not
to invalidate
letters
patent

10. The provisions of this Act relating to matters preliminary to the issue of letters patent or supplementary letters patent or an order are directory only, and no letters patent or supplementary letters patent or order are void or voidable on account of any irregularity or insufficiency in any matter preliminary to the issue thereof. R.S.O. 1970, c. 89, s. 10.

Notice of
issue of
letters
patent

11. The Minister shall cause notice of the issue of letters patent, supplementary letters patent or an order to be given forthwith in *The Ontario Gazette*. R.S.O. 1970, c. 89, s. 11.

Commence-
ment of
existence

12.—(1) A corporation comes into existence on the date of the letters patent incorporating it.

Effective
date of
letters
patent, etc.

(2) Letters patent of incorporation, letters patent of continuation, letters patent of amalgamation and supplementary letters patent, issued under this Act or any predecessor thereof, take effect on the date set forth therein. R.S.O. 1970, c. 89, s. 12.

Corporate
name

13.—(1) A corporation shall not be given a name,

(a) that is the same as or similar to the name of a known corporation, association, partnership, individual or business if its use would be likely to deceive, except where the corporation, association, partnership, individual or person signifies its or his consent in writing that its or his name in whole or in part be granted, and, if required by the Minister,

(i) in the case of a corporation, undertakes to dissolve or change its name within six months

after the incorporation of the new corporation,
or

- (ii) in the case of an association, partnership or individual, undertakes to cease to carry on its or his business or activities, or change its or his name, within six months after the incorporation of the new corporation;
- (b) that suggests or implies a connection with the Crown or any member of the Royal Family or the Government of Canada or the government of any province of Canada or any department, branch, bureau, service, agency or activity of any such government without the consent in writing of the appropriate authority;
- (c) that, when the objects applied for are of a political nature, suggests or implies a connection with a political party or a leader of a political party;
- (d) that is objectionable on any public grounds. R.S.O. 1970, c. 89, s. 13 (1), *revised*.

(2) If a corporation through inadvertence or otherwise has been or is given a name that is objectionable, the Lieutenant Governor, after he has given notice to the corporation of his intention so to do, may direct the issue of supplementary letters patent changing the name of the corporation to some other name.

Change of
name if
objection-
able

(3) A person who feels aggrieved as a result of the giving of a name under subsection (1) or the changing or refusing to change a name under subsection (2) may, upon at least seven days notice to the Minister and to such other persons as the court directs, apply to the court for a review of the matter, and the court may make an order changing the name of the corporation to such name as it considers proper or may dismiss the application.

Reference
to court

(4) A copy of an order made under subsection (3), certified under the seal of the court, shall be filed with the Minister by the corporation within ten days after it is made.

Filing

(5) A corporation that fails to comply with subsection (4) is guilty of an offence and on conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who

Offence

authorizes, permits or acquiesces in any such failure is guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 13 (2-5).

Change not
to affect
rights, etc.

14. A change in the name of a corporation does not affect its rights or obligations. R.S.O. 1970, c. 89, s. 14.

Unauthor-
ized use of
"Limited",
etc.

15. A person, partnership or association that trades or carries on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof is used, unless incorporated, is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 15.

Reservation
of name

16. The Minister may, on the application in writing of any person and on the payment of a fee of \$2, reserve a corporate name for the use and benefit of the applicant or his nominee for a period of sixty days or such lesser period as he specifies. R.S.O. 1970, c. 89, s. 16.

PART II

COMPANIES

Application

17. Subject to section 2 and except where it is otherwise expressly provided, this Part applies,

- (a) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every company incorporated by or under a general or special Act of the Legislature,

but this Part does not apply to a company, incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1970, c. 89, s. 18.

18.—(1) The applicants for incorporation of a company shall file with the Lieutenant Governor an application showing: ^{Application for incorporation}

1. The names in full, the place of residence and the calling of each of the applicants.
2. The name of the company to be incorporated.
3. The objects for which the company is to be incorporated.
4. The place in Ontario where the head office of the company is to be situate.
5. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued.
6. Where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them.
7. Where the company is to be a private company, a statement to that effect and the restrictions to be placed on the transfer of its shares.
8. The names of the applicants who are to be the first directors of the company.
9. The class and number of shares to be taken by each applicant and the amount to be paid therefor.
10. Any other matters that the applicants desire to have included in the letters patent.

(2) The applicants may ask to have included in the letters patent any provision that could be the subject of a by-law of the company. ^{Idem} R.S.O. 1970, c. 89, s. 19.

19. Upon incorporation of a company, each applicant becomes a shareholder holding the class and number of shares stated in the application to be taken by him and is liable to the company for the amount to be paid therefor. ^{Original shareholders} R.S.O. 1970, c. 89, s. 20.

Use of word
"Limited"

20.—(1) The name of a company shall have the word "Limited" as the last word thereof, but a company may use the abbreviation "Ltd." for "Limited" and may be referred to in the same manner.

Not
applicable
to insurers

(2) This section does not apply to insurers incorporated under Part V. R.S.O. 1970, c. 89, s. 21.

Use of
name

21.—(1) Where a company or a director, officer or employee thereof uses the name of the company, the word "Limited", or the abbreviation "Ltd.", shall appear as the last word thereof.

Exception

(2) Stamping, writing, printing or otherwise marking on goods, wares and merchandise of the company or upon packages containing the same shall not be deemed a use of the name within the meaning of subsection (1).

Idem

(3) A private company shall have the words "private company" on its seal.

Offence

(4) A company that contravenes any requirement of this section and every director, officer or employee of the company who authorizes, permits or acquiesces in any such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 22.

Use of
name

22. Notwithstanding subsection 20 (1) and section 21, a company may use its name in such form and in such language as the letters patent or supplementary letters patent provide. R.S.O. 1970, c. 89, s. 23.

Incidental
powers

23.—(1) A company possesses, as incidental and ancillary to the objects set out in the letters patent or supplementary letters patent, power,

- (a) to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;
- (b) to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the company is authorized to carry on;
- (c) to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae,

licences, inventions, processes, distinctive marks and similar rights;

- (d) to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction that the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the company, and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, reissue, with or without guarantee, or otherwise deal with the same;
- (e) to take or otherwise acquire and hold shares in any other company having objects altogether or in part similar to those of the company or carrying on any business capable of being conducted so as to benefit the company;
- (f) to enter into arrangements with any public authority that seem conducive to the company's objects and obtain from any such authority any rights, privileges or concessions;
- (g) to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the company or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this clause, and subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;
- (h) to promote any company for the purpose of acquiring or taking over any of the property and liabilities of the company, or for any other purpose that may benefit the company;
- (i) to purchase, lease or take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the company may think

necessary or convenient for the purposes of its business;

- (j) to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches, sidings, bridges, reservoirs, watercourses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences that may advance the company's interests, and to contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
- (k) to raise and assist in raising money for, and to aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or company with whom the company may have business relations or any of whose shares, securities or other obligations are held by the company and to guarantee the performance or fulfilment of any contracts or obligations of any such person or company, and in particular to guarantee the payment of the principal of and interest on securities, mortgages and liabilities of any such person or company;
- (l) to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments;
- (m) to sell, lease, exchange or dispose of the undertaking of the company or any part thereof as an entirety or substantially as an entirety for such consideration as the company thinks fit, and in particular for shares or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by a special resolution;
- (n) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the company in the ordinary course of its business;
- (o) to adopt such means of making known the products of the company as seems expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals

or by granting prizes and rewards or making donations;

- (p) to cause the company to be registered and recognized in any foreign country or province or territory of Canada, and to designate persons therein according to the laws of such foreign country or province or territory to represent the company and to accept service for and on behalf of the company of any process or suit;
- (q) to allot and issue fully-paid shares of the company in payment or part payment of any property purchased or otherwise acquired by the company or for any past services rendered to the company;
- (r) to distribute among the shareholders of the company in money, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner considered advisable, any property of the company, but no such distribution shall decrease the capital of the company unless made in accordance with this Act;
- (s) to pay all costs and expenses of or incidental to the incorporation and organization of the company;
- (t) to invest and deal with the moneys of the company not immediately required for its objects in such manner as may be determined;
- (u) to do any of the above things and all things authorized by the letters patent and supplementary letters patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (v) to do all such other things as are incidental or conducive to the attainment of the above objects and of the objects set out in the letters patent and supplementary letters patent.

(2) Any of the powers set out in subsection (1) may be withheld or limited by the letters patent or supplementary letters patent. ^{Powers may be withheld} R.S.O. 1970, c. 89, s. 24.

24.—(1) Except as provided in subsection (2), a company shall not make loans to any of its shareholders or directors or give, directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance ^{Loans to shareholders and directors}

for the purpose of, or in connection with, a purchase made or to be made by any person of any shares of the company.

Exceptions

(2) A company may,

- (a) make loans to any of its shareholders or directors in the ordinary course of its business where the making of loans is part of the ordinary business of the company; or
- (b) make loans to *bona fide* full-time employees of the company whether or not they are shareholders or directors, with a view to enabling them to purchase or erect dwelling houses for their own occupation, and may take from such employees mortgages or other securities for the repayment of such loans; or
- (c) provide, in accordance with a scheme for the time being in force, money by way of loan for the purchase by trustees of fully-paid shares of the company, to be held by or for the benefit of *bona fide* employees of the company, whether or not they are shareholders or directors; or
- (d) make loans to *bona fide* employees of the company, other than directors, whether or not they are shareholders, with a view to enabling them to purchase fully-paid shares of the company to be held by them by way of beneficial ownership; or
- (e) if it is a private company, make loans to any of its shareholders or directors with a view to enabling them to purchase issued shares of the company.

By by-law
only

(3) The power mentioned in clause (2) (b), (c), (d) or (e) may be exercised only under the authority of a by-law passed by the directors and confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for considering the by-law.

Liability of
directors

(4) Every director and officer of a company making or assenting to a loan in contravention of this section is, until repayment of the loan, jointly and severally liable to the company and to its creditors for the debts of the company then existing or thereafter contracted to the amount of the loan with interest at the rate of .5 per cent per annum. R.S.O. 1970, c. 89, s. 25.

Authorized
capital

25.—(1) The authorized capital of a company shall be divided into shares with par value or without par value or both and may consist of shares of more than one class.

(2) Where the shares of a company are with par value, its authorized capital shall be expressed in dollars, pounds, francs or other currency in the letters patent or supplementary letters patent and is an amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof. ^{Par shares}

(3) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, its authorized capital shall be expressed as a specified number of shares in the letters patent or supplementary letters patent. ^{No par or par and no par shares}

(4) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, the letters patent or supplementary letters patent may provide that each share without par value or the shares of each class of shares without par value are not to be issued for a consideration exceeding in amount or value a stated amount in dollars, pounds, francs or other currency, and the letters patent or supplementary letters patent may provide, in addition, that such share or shares may be issued for such greater amount as the board of directors of the company considers expedient on payment to the Treasurer of Ontario of the fees payable on such greater amount and on the issuance by the Minister of a certificate of such payment. R.S.O. 1970, c. 89, s. 26. ^{Consideration for no par shares}

26. Each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1970, c. 89, s. 27. ^{Nature of shares}

27.—(1) If a company has more than one class of shares, one class shall be common shares designated as such and the other class or classes shall be preference shares howsoever designated. ^{More than one class of shares}

(2) Subsection (1) does not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1970, c. 89, s. 28. ^{Application}

28.—(1) If a company has more than one class of shares, the letters patent or supplementary letters patent shall provide that the preference shares of a class confer upon the holders thereof a preference or right over the holders of shares of another class, either preference or common, and such preference or right, without limiting the nature thereof, may be in respect of dividends, repayment of capital, the right to elect part of the board of directors or the right to convert such shares into shares of another class or other classes of shares or into securities. ^{Preference shares}

Conditions,
etc.

(2) The letters patent or supplementary letters patent of a company may provide that the preference shares of a class may have attached thereto conditions, restrictions, limitations or prohibitions including, but without limiting the nature thereof, the right of the company to purchase for cancellation or at its option to redeem all or part of the shares of that class or conditions, restrictions, limitations or prohibitions on the right to vote.

Redemption
by share-
holders

(3) If the letters patent or supplementary letters patent so provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, any preference shares of a class may be redeemed by the company at the request of a holder or of a number or proportion of such holders.

No par
preference
shares not
to be
redeemed

(4) Preference shares without par value do not have a preference in respect of the repayment of capital and are not subject to redemption or purchase for cancellation.

Redemption
of par value
preference
shares

(5) Where preference shares with par value are to be redeemed, they shall be redeemed at the amount paid up thereon, but, if the letters patent or supplementary letters patent so provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, a premium, unpaid dividends or other stated amount may be paid.

Redemption
at actual
value

(6) Notwithstanding subsection (5), if the letters patent or supplementary letters patent so provide, the preference shares of a class may be redeemed out of money set aside in a fund for such purpose at a price as near as may be to the actual value thereof, and the method of determining such actual value shall be set out in the letters patent or supplementary letters patent.

Redemption
of part

(7) Where the preference shares of a class are made redeemable by the letters patent or supplementary letters patent and where at any time some but not all of such shares are to be redeemed, the shares to be redeemed shall, except as provided in subsections (8) and (9), be selected by lot in such manner as the board of directors determines or as nearly as may be in proportion to the number of shares registered in the name of each shareholder.

Redemption
of all or
part

(8) Where at least 95 per cent of the holders of the preference shares of a class holding at least 95 per cent of the issued shares of such class consent in writing and where, after twenty-one days notice has been given by sending the notice to each of the holders of shares of such class to his

last address as shown on the books of the company, none of the holders of shares of such class dissents in writing to the company, the company may redeem all or any of such shares in such manner as the board of directors determines.

(9) Where a holder of preference shares of a private company dies or leaves its employment, it may within one year of such event redeem all or any of the preference shares held by the deceased shareholder or former employee. Redemption of preference shares of private company

(10) The letters patent or supplementary letters patent of a company may withhold any of the powers set out in subsection (7), (8) or (9). Power to withhold

(11) Where the letters patent or supplementary letters patent provide that the preference shares may be purchased for cancellation by the company, the company may purchase some or all of such shares at the lowest price at which, in the opinion of the directors, such shares are obtainable, but not exceeding the amount paid up thereon; but, if the letters patent or supplementary letters patent so provide, a premium, unpaid dividends or other stated amount may be paid. Purchase of preference shares by company

(12) Preference shares shall not be redeemed or purchased for cancellation by the company if the company is insolvent or if the redemption or purchase would render the company insolvent. Insolvency

(13) Where preference shares are redeemed or purchased for cancellation by the company, they shall be thereby cancelled, and the authorized and the issued capital of the company shall be thereby decreased. Effect of redemption

(14) Where preference shares are converted into the same or another number of shares of another class or classes, whether preference or common, the shares converted thereupon become the same in all respects as the shares of the class or classes respectively into which they are converted and the number of shares of each class affected by the conversion is changed accordingly. Conversion of preference shares

(15) Where preference shares are converted into another class or other classes of shares, the issued capital of the company shall not be increased or decreased by the conversion. Issued capital unchanged on conversion

(16) Subsections (1), (4), (7), (8), (9) and (11) do not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1970, c. 89, s. 29. Application

Preference
shares in
series

29.—(1) The letters patent or supplementary letters patent of a company may authorize the issue from time to time in one or more series of the preference shares of a class and may authorize the directors to fix from time to time before such issue the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of each series of such class.

Voting
rights

(2) The shares of all series of the same class of preference shares shall carry the same voting rights or the same restrictions, conditions, limitations or prohibitions on the right to vote.

Dividends

(3) Where any dividends or amounts payable on a repayment of capital are not paid in full, the shares of all series of the same class of preference shares shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and on any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full.

Conditions
precedent
to issue

(4) No shares of any series of a class of preference shares shall be issued until supplementary letters patent have been issued setting forth the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series except in the case of the first series if such designation, preferences, rights, conditions, restrictions, limitations or prohibitions have been set forth in the letters patent or prior supplementary letters patent.

Issue of
supplemen-
tary letters
patent

(5) The Lieutenant Governor may issue such supplementary letters patent on the application of the company authorized by a resolution of the directors fixing the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series and the filing with the Minister of evidence of the due compliance with the conditions, if any, contained in the letters patent or in any prior supplementary letters patent, precedent to the creation and issue of the shares of such series. R.S.O. 1970, c. 89, s. 30.

Voting
rights

30.—(1) Subject to subsection 28 (2), every holder of a preference share or a common share is entitled to one vote for each preference share or each common share held by him at all meetings of the shareholders of the company, but this subsection does not apply to shares authorized before the 30th day of April, 1954.

(2) The letters patent or supplementary letters patent ^{Votes} may provide for a greater number of votes for each share of a class or classes at all times or on the happening of a stated event. R.S.O. 1970, c. 89, s. 31.

31.—(1) Where the shares of a company are with par value, its issued capital shall be expressed in dollars, ^{Issued capital, par value shares} pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof.

(2) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, its issued capital shall be expressed in dollars, pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the company may be transferred thereto. ^{No par value shares, etc.}

(3) Nothing in subsection (2) affects the capital of a com- ^{Idem}pany in respect of shares without par value issued before the 30th day of April, 1954, if the letters patent or the supplementary letters patent of the company provide that the capital is to be at least equal to the sum of the aggregate par value of all issued shares having par value plus a sum in dollars, pounds, francs or other currency in respect of every issued share without par value plus such amounts as from time to time by by-law of the company may be transferred thereto.

(4) Where, before the 30th day of April, 1954, a company ^{Idem} has set aside part of the consideration received upon the allotment and issue of shares without par value as distributable surplus, the amount of such distributable surplus does not form part of its issued capital. R.S.O. 1970, c. 89, s. 32.

32.—(1) In the absence of a provision to the contrary ^{Issue of shares} in the letters patent, supplementary letters patent or by-laws of the company, shares may be allotted and issued at such times and in such manner and to such persons or class of persons as the directors determine.

(2) Shares with par value shall not be allotted and issued ^{Consideration, par value shares} as fully paid except for a consideration payable in cash at least equal to the product of the number of shares

allotted and issued multiplied by the par value thereof or for a consideration payable directly or indirectly in property or past services which the directors in good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

Consideration, no par shares

(3) Shares without par value may be allotted and issued for such consideration as is fixed by the directors acting in good faith and in the best interests of the company.

Idem

(4) Shares without par value shall not be allotted and issued as fully paid except for the consideration fixed by the directors as aforesaid payable in cash to the total amount of the consideration so fixed or for a consideration payable directly or indirectly in property or past services which the directors in good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

Holders not liable to creditors, etc.

(5) Shares allotted and issued in accordance with this section shall be fully paid and non-assessable upon receipt by the company of the consideration for the allotment and issue thereof, and upon such receipt the holders of such shares are not liable to the company or to its creditors in respect thereof. R.S.O. 1970, c. 89, s. 33.

Commission on sale of shares

33.—(1) The directors may pass by-laws for the payment of commissions to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional for such shares, but no such commission shall exceed 25 per cent of the amount of the subscription.

Commission by-laws to be confirmed

(2) No by-law passed under subsection (1) is effective until it is confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it.

No unauthorized commissions

(3) Except as provided in subsection (1), no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or is paid out of the nominal purchase money or contract price or otherwise. R.S.O. 1970, c. 89, s. 34.

34.—(1) A company may apply to the Lieutenant Governor for the issue of supplementary letters patent,

Supple-
mentary
letters
patent

- (a) extending, limiting or otherwise varying its objects;
- (b) changing its name;
- (c) increasing its authorized capital;
- (d) decreasing,
 - (i) its authorized capital by cancelling issued or unissued shares with or without par value or by reducing the par value of issued or unissued shares, or
 - (ii) its issued capital, if it has shares without par value,

and, where it has more capital than it requires, authorizing the repayment of capital to the shareholders to the extent that the issued capital is decreased in any way under this clause;

- (e) redividing its authorized capital into shares of lesser or greater par value;
- (f) consolidating or subdividing any of its shares without par value;
- (g) changing any of its shares with par value into shares without par value;
- (h) changing any of its shares without par value into shares with par value;
- (i) reclassifying any shares with or without par value into shares of a different class;
- (j) varying any provision in its letters patent or prior supplementary letters patent;
- (k) providing for any other matter or thing in respect of which provision may be made in letters patent under this Act;
- (l) converting it into a public company;
- (m) making it subject to Part IV;
- (n) making it not subject to Part IV;

(o) converting it into a private company;

(p) converting it into a corporation without share capital;

(q) converting it into a corporation, with or without share capital.

Author-
ization

(2) An application under clauses (1) (a) to (n) shall be authorized by a special resolution.

Idem

(3) An application under clauses (1) (o) to (q) shall be authorized by a resolution of the board of directors and confirmed in writing,

(a) by 100 per cent of the shareholders; or

(b) by at least 95 per cent of the shareholders holding at least 95 per cent of the issued capital,

but, in the case of confirmation under clause (b), the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each shareholder to his last address as shown on the books of the company and only if at the expiration of the twenty-one days none of the shareholders has dissented in writing to the company.

Additional
author-
ization for
variation of
rights of
preference
shareholders

(4) If the application is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, then, subject to subsection (5) and, in addition to the authorization required by subsection (2), the application shall not be made until the application has been authorized in writing,

(a) by 100 per cent of the holders of the shares of such class or classes of shares; or

(b) by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes,

but, in the case of authorization under clause (b), the application shall not be made until twenty-one days notice of the application has been given by sending the notice to

each of the holders of shares of such class or classes to his last address as shown on the books of the company and only if at the expiration of twenty-one days none of the holders of such class or classes has dissented in writing to the company.

(5) If the letters patent or supplementary letters patent ^{Idem} so provide, the authorization required by subsection 4 may be given by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose.

(6) Where letters patent or supplementary letters patent ^{Exception} issued before the 30th day of April, 1954, provide for an authorization for an application for supplementary letters patent to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, such authorization is effective, and subsections (4) and (5) do not apply.

(7) An application under subsection (1) may be made ^{Time of application} only within six months after the resolution has been confirmed by the shareholders.

(8) Subsection (4) does not apply to an arrangement under ^{Exception} section 112.

(9) This section does not apply to a company incorporated ^{Special Act corporations} by special Act, except that a company incorporated by ^{excepted} special Act may apply under this section for the issue of supplementary letters patent changing its name. R.S.O. 1970, c. 89 s. 35.

35. On an application for supplementary letters patent ^{Reduction of capital} decreasing authorized or issued capital, the company shall establish to the satisfaction of the Minister that after the decrease the company will be solvent and, if required by the Minister, shall establish to his satisfaction that there are no creditors who object to the application. R.S.O. 1970, c. 89, s. 36.

36. Where issued shares without par value are cancelled, ^{Decrease of issued capital} the issued capital is thereby decreased by an amount equal to the total of the products of the average consideration for which the shares of each such class were issued multiplied by the number of shares cancelled of each such class, respectively. R.S.O. 1970, c. 89, s. 37.

Liability on
decrease of
issued
capital

37.—(1) On a decrease of the issued capital of a company by supplementary letters patent, each person who was a shareholder on the date of the supplementary letters patent is individually liable to the creditors of the company for the debts due on that date to an amount not exceeding the amount of the repayment to him or reduction of his liability, or both, as the case may be.

Limitation
of liability

(2) A person is not liable under subsection (1),

(a) unless the company has been sued for the debt within six months after the date of the supplementary letters patent and execution has been returned unsatisfied in whole or in part; and

(b) unless he is sued for the debt within two years from the date of the supplementary letters patent.

Idem

(3) After execution has been so returned, the amount due on the execution, not exceeding the amount of the repayment to the person or the reduction of his liability, is the amount recoverable against such person.

Class actions

(4) Where it is made to appear that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders as may be found, and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Shareholder
holding
shares in
fiduciary
capacity

(5) No person holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee, who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust, is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section. R.S.O. 1970, c. 89, s. 38.

Fractional
shares

38.—(1) A person entitled to a fraction of a share is not entitled to be registered on the books of the company in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction and, on presentation at the head office of the company, or at a place designated by the company, of bearer fractional certificates for fractions that

together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor and the person in whose name such certificate is issued shall be registered on the books of the company as the holder of such share.

(2) Such a bearer fractional certificate is transferable by delivery. Transfer

(3) For the purpose of consolidating fractions of shares into whole shares, a company may purchase fractions of shares and, if it does so, it shall sell forthwith the whole shares resulting from the consolidation. R.S.O. 1970, c. 89, s. 39. Purchase by company

39. The shares of a company shall be deemed to be personal estate. R.S.O. 1970, c. 89, s. 40. Shares deemed personal estate

40.—(1) The shares of a company are transferable on the books of the company subject to such conditions and restrictions as this Act, the special Act, the letters patent or supplementary letters patent prescribe. Transfer of shares

(2) Subject to subsection (3), no by-law shall be passed that in any way restricts the right of a holder of fully-paid shares to transfer them, but by-laws may be passed regulating the method of their transfer. Transfer by-laws

(3) Except in the case of shares listed on a recognized stock exchange, where the letters patent, supplementary letters patent or by-laws so provide, the directors may refuse to permit the registration of a transfer of fully-paid shares registered in the name of a shareholder who is indebted to the company. R.S.O. 1970, c. 89, s. 41. Where shareholder indebted to company

41. Every company shall cause to be kept a register of transfers in which all transfers of shares and the date and other particulars of each transfer shall be set out. R.S.O. 1970, c. 89, s. 42. Register of transfers

42. A company may appoint a transfer agent to keep the register of shareholders and the register of transfers and may also appoint one or more branch transfer agents to keep branch registers of shareholders and branch registers of transfers. R.S.O. 1970, c. 89, s. 43. Transfer agents

43.—(1) The register of shareholders and the register of transfers shall be kept at the head office of the company or at such other office or place in Ontario as is appointed by resolution of the directors, and the branch register or Where registers to be kept

registers of shareholders and the branch register or registers of transfers may be kept at such office or offices of the company or other place or places, either in or outside Ontario, as are appointed by resolution of the directors.

Valid
registration

(2) Registration of the transfer of a share of the company in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes.

Entry in
branch
transfer
register

(3) In each branch register of transfers shall be recorded only the particulars of the transfers of shares registered in that branch register of transfers.

Entry in
register of
transfers

(4) Particulars of every transfer of shares registered in every branch register of transfers shall be recorded in the register of transfers.

Closing of
register of
transfers

(5) The directors of a company may by resolution close the register of transfers and the branch register or registers of transfers, if any, for a period of time not exceeding forty-eight hours, exclusive of Saturdays and holidays, immediately preceding any meeting of the shareholders, and notice of every such closing shall be given in a newspaper published in the place where the register of transfers is kept and in a newspaper published in each place in which a branch register of transfers is kept. R.S.O. 1970, c. 89, s. 44.

Share
certificates

44.—(1) Every shareholder is entitled to a share certificate in respect of the shares held by him, signed by the proper officers in accordance with the company's by-laws in that regard, but the company is not bound to issue more than one share certificate in respect of a share or shares held jointly by several persons and delivery of a share certificate to one of several joint shareholders is sufficient delivery to all.

Evidence

(2) A share certificate is *prima facie* evidence of the title of the shareholder to the shares represented thereby.

Fee

(3) A company may charge a fee of not more than 50 cents for every share certificate issued, except that, in the case of the allotment and issue of shares, no fee shall be charged. R.S.O. 1970, c. 89, s. 45.

Lost
certificates

45. Where a share certificate is defaced, destroyed or lost, a new certificate may be issued in its place on payment of such fee, if any, not exceeding \$1 and on such terms, if any, as to evidence and indemnity as the directors determine. R.S.O. 1970, c. 89, s. 46.

46.—(1) Every share certificate,Contents
of share
certificates

- (a) shall bear upon its face the name of the company, the words “Incorporated in the Province of Ontario” or words of like effect and a statement of its authorized capital; and
- (b) shall state the number and class of shares represented thereby and whether the shares are with par value or without par value and, if partly paid, the amount paid up thereon or that the shares are fully paid, as the case may be; and
- (c) if it represents preference shares, shall state thereon in legible characters the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the class of preference shares to which it belongs; and
- (d) if it represents shares of a private company, shall bear upon its face the words “Private Company”.

(2) Where some but not all of the preference shares of a class are converted, redeemed or purchased for cancellation, it is unnecessary for the company to change the statement of its authorized capital on its share certificates. R.S.O. 1970, c. 89, s. 47. Exception

47. A share certificate shall be signed manually by at least one officer of the company or by or on behalf of a transfer agent or branch transfer agent of the company, and the company may by by-law provide that any additional signatures required on share certificates may be printed, engraved, lithographed or otherwise mechanically reproduced thereon, and in such event share certificates so signed are as valid as if they had been signed manually. R.S.O. 1970, c. 89, s. 48. Signing
of share
certificates

48.—(1) A company is not bound to see to the execution of any trust, whether express, implied or constructive, in respect of any share. Trusts

(2) The receipt of the shareholder in whose name the share is registered on the books of the company is a valid and binding discharge to the company for any payment made in respect of such share whether notice of such trust has been given to the company or not. Discharge

(3) The company is not bound to see to the application of the money paid upon such receipt. Application
of money
paid

Authority to
transfer

(4) The written authorization of an executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as holding shares in any such capacity is sufficient justification for the company to register a transfer of such shares, including a transfer into the name of such executor, administrator, committee of a mentally incompetent person, guardian or trustee absolutely. R.S.O. 1970, c. 89, s. 49.

Share
warrants

49.—(1) A public company, if so authorized by its letters patent or supplementary letters patent and subject to the provisions respecting share warrants therein contained, may, with respect to any fully-paid shares, issue under the seal of the company a share warrant stating that the bearer of it is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of future dividends on the share or shares specified in the share warrant.

Entry of
share
warrant
in company
books

(2) On the issue of a share warrant, the company shall remove from its books the name of the shareholder then entered thereon as holding such share or shares as if he had ceased to be a shareholder and shall enter in such books the following particulars:

1. The fact of the issue of the share warrant.
2. A statement of the shares specified in the share warrant.
3. The date of the issue of the share warrant.

Transfer

(3) A share warrant entitles the bearer thereof to the shares therein specified and the shares may be transferred by delivery of the warrant.

Bearer
of share
warrant
deemed
shareholder

(4) The bearer of a share warrant shall be deemed to be a shareholder of the company, except that he is not entitled to receive notice of meetings or a copy of any financial statement or auditor's report and is not qualified in respect of shares specified in the share warrant to be a director of the company.

Voting
rights

(5) Upon presentation of a share warrant at a meeting of shareholders, its bearer is entitled to attend the meeting and vote the shares specified in it.

Certificate

(6) For the purpose of subsection (5), the expression "share warrant" includes a certificate or other document satisfactory to the company to the effect that its bearer

is the holder of a share warrant in respect of the shares specified in the certificate or other document.

(7) The bearer of a share warrant is, subject to the provisions respecting share warrants contained in the letters patent or supplementary letters patent, entitled, on surrendering it for cancellation, to have the shares specified in it registered in his name on the books of the company, and the company is responsible for any loss incurred by any person by reason of the company entering on its books the name of the bearer of a share warrant in respect of the shares specified in it without the warrant being surrendered and cancelled.

(8) Upon the surrender of a share warrant for cancellation, the date of the surrender shall be entered in the books of the company. R.S.O. 1970, c. 89, s. 50.

50.—(1) No transfer of shares, unless made by sale under an execution or under a decree, order or judgment of a court of competent jurisdiction, is valid for any purpose whatsoever until registration thereof has been duly made in the register of transfers or in a branch register of transfers of the company, save only as exhibiting the rights of the parties thereto towards each other and, if absolute, of rendering any transferee jointly and severally liable with the transferor to the company and to its creditors.

(2) Notwithstanding subsection (1), where fully-paid shares are listed on a recognized stock exchange at the time of the delivery of a certificate for such shares with a duly executed instrument of transfer endorsed thereon or accompanying it, such delivery constitutes a valid transfer of the shares represented by such certificate, but, until registration of such transfer is duly made in the register of transfers or in a branch register of transfers of the company, the company may treat the person in whose name the shares represented by such certificate are registered on the books of the company as being solely entitled to receive notice of and vote at meetings of shareholders and receive any payments in respect of such shares whether by way of dividends or otherwise.

(3) A power of attorney contained in a duly executed instrument of transfer endorsed on or accompanying a share certificate delivered for value before the death of the transferor is not revoked by the death of the transferor but is valid and effectual subject to the conditions or restrictions, if any, contained therein. R.S.O. 1970, c. 89, s. 51.

Notice to
owner

51.—(1) The directors may refuse to permit the registration of a transfer of shares on the books of the company for the purpose of notifying the person registered thereon as owner of such shares of the application for such registration, and in that event the company shall forthwith give notice to such person of such application.

Owner may
lodge caveat

(2) The owner may within seven days after the giving of such notice lodge a caveat against the registration of the transfer and thereupon the registration of the transfer shall not be made for a period of forty-eight hours.

Transfer
may be
registered if
no order
served

(3) If within one week after the giving of such notice or the expiration of such period of forty-eight hours, whichever last expires, no order of a competent court enjoining the registration of the transfer has been served upon the company, the transfer may be registered.

Liability of
company

(4) Where a transfer of shares is registered after the proceedings mentioned in this section, the company is not liable in respect of such shares to a person whose rights are purported to be transferred, but nothing in this subsection prejudices any claim the transferor may have against the transferee. R.S.O. 1970, c. 89, s. 52.

Where
consent of
directors
to transfer
required

52.—(1) No registration of a transfer of shares that are not fully paid shall be made without the consent of the directors and of the transferee and, subject to subsection (4), where such registration is made with the consent of the directors, the transferor is not liable to the company or to its creditors for the amount unpaid on such shares.

Directors'
liability

(2) Subject to subsection (3), where registration is made with the consent of the directors of a transfer of shares that are not fully paid to a person whom the directors have reason to believe is not of sufficient means to pay fully for such shares, the directors are jointly and severally liable to the company and to its creditors in the same manner and to the same extent as the transferor would have been liable if the registration had not been made.

Relief from
liability

(3) If a director, present when such consent to registration is given, forthwith, or, if a director then absent, within seven days after he becomes aware of such consent, delivers to an officer of the company his written protest against such consent and, within seven days after delivery of such protest, sends a copy of such protest by registered mail to the Minister, such director thereby and not otherwise exonerates himself from liability under subsection (2).

(4) Where the transfer of a share upon which a call is unpaid is registered with the consent of the directors and of the transferee, the transferee is liable for the call to the same extent and with the same liability to forfeiture of the share, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor also remains liable for the call until it is paid. R.S.O. 1970, c. 89, s. 53.

Liability
where call
remains
unpaid

53. Where upon the death of a holder of any shares or securities of a company a transmission thereof takes place to or title to or control thereof vests or is claimed to vest in any person, herein called "the successor", the company is justified in permitting or consenting to the registration thereof in the name of the successor on the company's books or in paying the principal amount thereof or any dividend or interest thereon to the successor,

Transmis-
sion of
deceased
shareholder's
shares

- (a) if the successor claims by virtue of a grant of probate or letters of administration or other instrument issued or purporting to be issued by a court or other judicial authority in any jurisdiction, upon production of the same or an authenticated copy thereof or extract therefrom or a certificate of such grant under the seal of such court or other authority without any proof of the authenticity of such seal or other proof whatever and deposit of a copy thereof; or
- (b) if the successor claims by virtue of the laws of any jurisdiction in which any such transmission or vesting of title or control takes place without a grant of probate or letters of administration or other court or judicial action, upon production and deposit of proof thereof in accordance with the laws of such jurisdiction and reasonable evidence of such laws; or
- (c) if the net value of the estate of the deceased holder is less than \$1,500 or if the market value of the shares or securities is less than \$300, upon proof thereof to the reasonable satisfaction of the company,

together with, in any such event, production and deposit by the successor of a sworn statement showing the nature of the transmission or vesting of title or control, as the case may be. R.S.O. 1970, c. 89, s. 54.

Calls on
shares

54.—(1) The directors may by resolution call in and by notice thereof in writing demand from the shareholders the whole or any part of the amount unpaid on shares held by them at such times and places and in such payments or instalments as this Act, the special Act, the letters patent, the supplementary letters patent, the by-laws or the terms of allotment and issue of such shares require or allow.

Demand
to state
liability to
forfeiture

(2) The demand shall state that, in the event of the call not being paid in accordance with the demand, the shares in respect of which the call was made will be liable to be forfeited.

Liability
for interest

(3) If a shareholder fails to pay a call due by him on or before the day appointed for the payment thereof, he is liable to pay interest on the amount thereof at the rate of 5 per cent per annum from the day appointed for payment to the time of payment.

Forfeiture
of shares

(4) In the event of the call not being paid in accordance with the demand, the directors may forfeit any shares on which the call is not paid.

Sale of
forfeited
shares

(5) Any forfeited shares become the property of the company upon the forfeiture, and, subject to its by-laws, may be sold.

Continuing
liability

(6) Notwithstanding such forfeiture, the holder of such shares at the time of forfeiture continues liable to the company and to its creditors for the full amount unpaid on such shares at the time of forfeiture, less any sums that are subsequently received by the company in respect thereof.

Refund of
excess on
sale

(7) Where the company receives on the sale of forfeited shares an amount in excess of the amount then unpaid on such shares, the excess amount shall be paid to the person whose shares were forfeited.

Recovery
of calls
by suit

(8) The directors may, instead of forfeiting any shares, enforce payment of all calls and interest thereon by action in a court of competent jurisdiction. R.S.O. 1970, c. 89, s. 55.

Right to
receive
uncalled
moneys

55. The directors may receive at any time from a shareholder all or any part of the moneys uncalled and unpaid upon shares held by him. R.S.O. 1970, c. 89, s. 56.

56.—(1) A shareholder shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares. Shareholder's liability limited

(2) A shareholder, until the whole amount has been paid up on his shares, is liable to the creditors of the company to an amount equal to that unpaid thereon, but he is not liable to an action therefor by a creditor until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part. Shareholder's liability

(3) The amount due on such execution, not exceeding the amount unpaid on his shares, is the amount recoverable from such shareholder and, when so recovered, shall be considered as paid on his shares. Amount recoverable

(4) A shareholder may plead by way of defence, in whole or in part, to any such action by a creditor any set-off that he could set up against the company except a claim for unpaid dividends or a salary or allowance as a director or officer of the company. R.S.O. 1970, c. 89, s. 57. Set-off

57.—(1) No executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable in respect of the shares that he so represents. Trustees, etc., not personally liable

(2) The estate, person or trust so represented is liable as if the testator, intestate, mentally incompetent person, ward or *cestui que trust* were registered on the books of the company as the holder of the shares. Liability of estate, etc.

(3) If the testator, intestate, mentally incompetent person, ward or *cestui que trust* so represented is not named on the books of the company, the executor, administrator, committee, guardian or trustee is personally liable in respect of such shares as if he held them in his own name as owner thereof. R.S.O. 1970, c. 89, s. 58. Where trustee, etc., liable

58.—(1) The word “mortgagee”, as used in subsection (2), includes a trustee for holders of securities. Interpretation

(2) No mortgagee of a share of a company and no person holding such a share as collateral security who is registered on the books of the company as the holder of Mortgagee not personally liable

such share and therein described as representing in either of such capacities a named mortgagor or person giving such collateral security is personally liable in respect of such share that he so represents, but the mortgagor or other person giving such collateral security is liable as if he were registered on the books of the company as the holder of such share. R.S.O. 1970, c. 89, s. 59.

Borrowing
powers

59.—(1) The directors may pass by-laws,

- (a) for borrowing money on the credit of the company;
or
- (b) for issuing, selling or pledging securities of the company; or
- (c) for charging, mortgaging, hypothecating or pledging all or any of the real or personal property of the company, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any securities or any money borrowed, or other debt, or any other obligation or liability of the company.

Interpre-
tation

(2) The expression “property of the company” in subsection (1) and in every predecessor thereof includes and has included always both present and future property of the company.

Borrowing
by-laws to
be confirmed

(3) No by-law passed under subsection (1) is effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it. R.S.O. 1970, c. 89, s. 60.

Irredeemable
securities

60. A condition contained in a security or in a deed for securing a security is not invalid by reason only that the security is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. R.S.O. 1970, c. 89, s. 61.

Duplicate
to be filed

61.—(1) A duplicate original, or a copy certified under the seal of the company, of any charge, mortgage or other instrument of hypothecation or pledge made by the company to secure its securities shall be filed forthwith in the office of the Minister.

Exception
R.S.O. 1980,
c. 94

(2) Subsection (1) does not apply to a charge or mortgage filed with the Minister under the *Corporation Securities Registration Act* or any other Act. R.S.O. 1970, c. 89, s. 62.

62.—(1) Subject to the special Act, letters patent or supplementary letters patent of the company, the directors may declare and the company may pay dividends on the issued shares of the company.

Power to
declare
dividends

(2) A dividend may be paid in money or in specie or in kind not exceeding in value the amount of the dividend.

Manner of
payment

(3) The directors shall not declare and the company shall not pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or that diminishes its capital, and, if any dividend or bonus is declared and paid contrary to this subsection, the directors are jointly and severally liable to the company for the amount of the dividend so declared and paid or such part thereof as renders the company insolvent or diminishes its capital.

When
dividend
not to be
declared

(4) If a director, present when any such dividend or bonus is declared, forthwith, or, if a director then absent, within seven days after he becomes aware of such declaration, delivers to an officer of the company his written protest against such declaration and, within seven days after delivery of such protest, sends a copy of such protest by registered mail to the Minister, such director thereby and not otherwise exonerates himself from liability under subsection (3).

Relief from
liability

(5) Nothing in this section prevents a mining company or a company whose assets are of a wasting character, or a company incorporated for the object of acquiring and administering the assets or a substantial part of the assets of another corporation, either from such corporation or from the assign of such corporation, for the purpose of converting such assets into money and distributing the money among the shareholders of the company, from declaring and paying dividends out of funds derived from the operations of the company.

Companies
with
wasting
assets

(6) The powers conferred by subsection (5) may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the issued capital of the company if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the company exclusive of its issued capital.

Extent of
impairment
of capital

(7) Subject to subsection (8), the powers conferred by subsection (5) may be exercised only under the authority of a by-law passed by the directors and confirmed by at least

Where
confirmed
by-law
required

two-thirds of the votes cast at a general meeting of the shareholders duly called for considering it.

Idem

(8) Where dividends have been paid by a company in any of the cases mentioned in subsection (5) without the authority of a by-law, the payment thereof is nevertheless valid if a by-law adopting and approving the payment is passed by the directors and confirmed by the shareholders in the manner mentioned in subsection (7). R.S.O. 1970, c. 89, s. 63.

Stock dividends

63. For the amount of any dividend that the directors may declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or may credit the amount of such dividend on shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. R.S.O. 1970, c. 89, s. 64.

Closing transfer registers

64. The directors, upon declaring a dividend, may direct that no transfer of shares shall be registered on the books of the company for a stated period, not exceeding two weeks, immediately preceding the payment of the dividend, and payment thereof shall be made to the shareholders of record on the date of closing the books. R.S.O. 1970, c. 89, s. 65.

Cumulative voting for directors

65. The letters patent, supplementary letters patent or by-laws of a company may provide that every shareholder entitled to vote at an election of directors has the right to cast thereat a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in such manner as he sees fit, and that, where he has voted for more than one candidate without specifying the distribution of his votes among such candidates he shall be deemed to have divided his votes equally among the candidates for whom he voted.

Removal of directors

66. Where the letters patent, supplementary letters patent or by-laws of a company provide for the election of directors by cumulative voting under section 65, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his

term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term, but that no director shall be removed where the votes cast against the resolution for his removal would, if cumulatively voted at an election of the full board of directors, be sufficient to elect one or more directors. R.S.O. 1970, c. 89, s. 67.

67.—(1) Where the letters patent, supplementary letters^{Idem} patent or by-laws of a company do not provide for cumulative voting under section 65, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term.

(2) Subsection (1) does not affect the operation of any^{Exception} provision respecting the removal of directors in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954. R.S.O. 1970, c. 89, s. 68.

68.—(1) The directors may pass by-laws not contrary to^{By-laws} this Act or to the letters patent or supplementary letters patent to regulate,

- (a) the allotment and issue of shares, the making of calls thereon, the payment thereof, the issue of share certificates, the forfeiture of shares for non-payment, the sale of forfeited shares, the transfer and the registration of transfers of shares;
- (b) the declaration and payment of dividends;
- (c) the qualification and remuneration of the directors;
- (d) the time for and the manner of election of directors;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the company and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of the shareholders and of the board of directors, the quorum at meetings of

shareholders, the requirements as to proxies, and the procedure in all things at shareholders' meetings and at meetings of the board of directors;

(g) the conduct in all other particulars of the affairs of the company.

Confirmation

(2) A by-law passed under subsection (1) and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the shareholders duly called for that purpose, is effective only until the next annual meeting of the shareholders unless confirmed thereat and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the shareholders.

Rejection, etc.

(3) The shareholders may at the general meeting or the annual meeting mentioned in subsection (2) confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law shall be prejudicially affected by any such rejection, amendment or other dealing. R.S.O. 1970, c. 89, s. 69.

Payment of president and directors

69. No by-law for the payment of the president as president or of any director as a director is effective until it has been confirmed at a general meeting of the shareholders duly called for that purpose. R.S.O. 1970, c. 89, s. 70.

Executive committee

70.—(1) Where the number of directors on the board of directors of a company is more than six, the directors may pass a by-law authorizing them to elect from among their number an executive committee consisting of not fewer than three and to delegate to the executive committee any powers of the board, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

Confirmation

(2) The by-law is not effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for that purpose.

Quorum

(3) An executive committee may fix its quorum at not less than a majority of its members. R.S.O. 1970, c. 89, s. 71.

Disclosure by directors of interests in contracts

71.—(1) Every director of a company who is in any way directly or indirectly interested in a proposed contract or a contract with the company shall declare his interest at a meeting of the directors of the company.

(2) In the case of a proposed contract, the declaration required by this section shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration or, if the director is not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he becomes so interested, and, in a case where the director becomes interested in a contract after it is made, the declaration shall be made at the first meeting of the directors held after he becomes so interested.

Time of
declaration

(3) For the purposes of this section, a general notice given to the directors of a company by a director to the effect that he is a shareholder of or otherwise interested in any other company, or is a member of a specified firm and is to be regarded as interested in any contract made with such other company or firm, shall be deemed to be a sufficient declaration of interest in relation to a contract so made, but no such notice is effective unless it is given at a meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

General
notice

(4) If a director has made a declaration of his interest in a proposed contract or contract in compliance with this section and has not voted in respect of the contract, he is not accountable to the company or to any of its shareholders or creditors for any profit realized from the contract, and the contract is not voidable by reason only of his holding that office or of the fiduciary relationship established thereby.

Effect of
declaration

(5) Notwithstanding anything in this section, a director is not accountable to the company or to any of its shareholders or creditors for any profit realized from such contract and the contract is not by reason only of his interest therein voidable if it is confirmed by a majority of the votes cast at a general meeting of the shareholders duly called for that purpose and if his interest in the contract is declared in the notice calling the meeting.

Confirma-
tion by
shareholders

(6) If a director is liable in respect of profit realized from any such contract and the contract is by reason only of his interest therein voidable, he is guilty of an offence and on conviction is liable to a fine of not more than \$200.

Offence

72.—(1) In this section and in sections 73 to 78,

Interpre-
tation

(a) “affiliate” means an affiliated company within the meaning of subsection 106 (3);

- (b) "associate", where used to indicate a relationship with any person, means,
- (i) any company of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,
 - (ii) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity, or
 - (iii) any relative or spouse of such person or any relative of such spouse who in any such case, has the same home as such person;
- (c) "capital security" means any share of any class of shares of a company or any bond, debenture, note or other obligation of a company, whether secured or unsecured;
- (d) "equity share" means any share of any class of shares of a company carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (e) "insider" or "insider of a company" means,
- (i) any director or senior officer of a public company that has fifteen or more shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder,
 - (ii) any person who beneficially owns, directly or indirectly, equity shares of such a company carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding, provided that in computing the percentage of voting rights attached to equity shares owned by an underwriter there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him, or

- (iii) any person who exercises control or direction over the equity shares of such a company carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding;

(f) "senior officer" means,

- (i) the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for the company similar to those normally performed by an individual occupying any such office, and

- (ii) each of the five highest paid employees of a company, including any individual referred to in subclause (i);

(g) "underwriter" has the same meaning as in the *Securities Act*.

R.S.O. 1980,
c. 466

(2) For the purposes of this section and sections 73 to 78, Idem

- (a) every director or senior officer of a company that is itself an insider of another company shall be deemed to be an insider of such other company;
- (b) an individual shall be deemed to own beneficially capital securities beneficially owned by a company controlled by him or by an affiliate of such company;
- (c) a company shall be deemed to own beneficially capital securities beneficially owned by its affiliates; and
- (d) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a capital security shall be deemed a change in the beneficial ownership of the capital security to which such transferable option relates. R.S.O. 1970, c. 89, s. 73.

73.—(1) A person who becomes an insider of a company ^{Report} shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report, as of the day on which he became an insider, of his direct or indirect beneficial ownership of or control or direction over capital securities of the company.

Idem

(2) If a person who is an insider of a company, but has no direct or indirect beneficial ownership of or control or direction over capital securities of the company, acquires direct or indirect beneficial ownership of or control or direction over any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership or such control or direction, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of or control or direction over capital securities of the company.

Report of
subsequent
changes

(3) A person who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over capital securities of the company changes from that shown or required to be shown in such report or in the last report filed by him under this subsection shall, within ten days following the end of the month in which such change takes place, provided that he was an insider of the company at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of or his control or direction over capital securities of the company at the end of such month and the change or changes therein that occurred during the month, and giving such details of each transaction as may be required by the regulations made under section 78. R.S.O. 1970, c. 89, s. 74.

Reports
may be
inspected

74.—(1) All reports filed with the Commission under section 73 or any predecessor thereof shall be open to public inspection at the offices of the Commission during normal business hours of the Commission, and any person may make extracts from such reports.

Publication
of informa-
tion
contained
in reports

(2) The Commission shall summarize in or as part of a monthly periodical for distribution to the public on payment of a reasonable fee therefor the information contained in the reports so filed. R.S.O. 1970, c. 89, s. 75.

Offence

75.—(1) Every person who is required to file a report under section 73 or any predecessor thereof and who fails so to do is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on conviction is liable to a like fine.

Idem

(2) Every person who files a report under section 73 or any predecessor thereof that is false or misleading by reason of the misstatement or omission of a material fact is guilty

of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in the filing of such false or misleading report is also guilty of an offence and on conviction is liable to a like fine.

(3) No person is guilty of an offence under subsection (2) if ^{Saving} he did not know and in the exercise of reasonable diligence could not have known that the report was false or misleading by reason of the misstatement or omission of a material fact.

(4) No prosecution shall be brought under subsection (1) or ^{Consent to prosecute} (2) without the consent of the Commission. R.S.O. 1970, c. 89, s. 76.

76.—(1) Every insider of a company or associate or ^{Liability of insiders} affiliate of such insider, who, in connection with a transaction relating to the capital securities of the company, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person for any direct loss suffered by such person as a result of such transaction, unless such information was known or ought reasonably to have been known to such person at the time of such transaction, and is also accountable to the company for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of such transaction.

(2) An action to enforce any right created by subsection (1) ^{Limitation period} may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action. R.S.O. 1970, c. 89, s. 77.

77.—(1) Upon application by any person who was at the time of a transaction referred to in subsection 76 (1) or is at the time of the application an owner of capital securities of the company, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that, ^{Order to commence action}

(a) such person has reasonable grounds for believing that the company has a cause of action under section 76; and

(b) either,

(i) the company has refused or failed to commence an action under section 76 within

sixty days after receipt of a written request from such person so to do, or

- (ii) the company has failed to prosecute diligently an action commenced by it under section 76,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission to commence or continue an action in the name of and on behalf of the company to enforce the liability created by section 76.

Notice to
company
and O.S.C.

- (2) The company and the Commission shall be given notice of any application under subsection (1) and shall have the right to appear and be heard thereon.

Order to
require
company to
co-operate

- (3) Every order made under subsection (1) shall provide that the company shall co-operate fully with the Commission in the institution and prosecution of such action and shall make available to the Commission all books, records, documents and other material or information known to the company or reasonably ascertainable by the company relevant to such action.

Appeal

- (4) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 89, s. 78.

Regulations

78. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form and content of the reports required to be filed under section 73;

- (b) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of sections 72 to 77. R.S.O. 1970, c. 89, s. 79.

Exception

79.—(1) Upon the application of any interested person, the Commission may, if satisfied upon the circumstances of the particular case that there is adequate justification for so doing, make an order upon such terms and conditions as seem to the Commission to be expedient exempting in whole or in part any person from the requirements of section 73.

Hearing of
Commission
R.S.O. 1980,
c. 466

- (2) The provisions of the *Securities Act* respecting hearings by the Commission apply, so far as possible, to hearings of the Commission under this section.

Appeal from
Commission

- (3) Any person who feels aggrieved by a decision of the Commission under this section may appeal the decision to the

Divisional Court, and subsections 9 (2) to (6) of the *Securities Act* R.S.O. 1980, c. 466 apply to the appeal. R.S.O. 1970, c. 89, s. 80.

80. Every director of a company, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the company, given at any meeting of the shareholders, from time to time and at all times, be indemnified and saved harmless out of the funds of the company, from and against,

Director indemnified in suits respecting execution of his office

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default.

R.S.O. 1970, c. 89, s. 81.

81.—(1) The directors of a company are jointly and severally liable to the clerks, labourers, servants, apprentices and other wage earners thereof for all debts due while they are directors for services performed for the company, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under the *Employment Standards Act* or any predecessor thereof and the regulations thereunder or under any collective agreement made by the company.

Liability of directors for wages

R.S.O. 1980, c. 137

(2) A director is not liable under subsection (1),

Limitation of liability

- (a) unless the company has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part, or the company has within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and the claim on the debt has been fully filed and proved; and

R.S.C. 1970, c. B-4

- (b) unless he is sued for the debt while a director or within six months after he ceases to be a director.

Idem

(3) After execution has been so returned against the company, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

Rights of
director
who pays
the debt
R.S.C. 1970,
c. B-4

(4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment.

Director
holding
shares in
fiduciary
capacity

(5) No director holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all the liabilities imposed by this section. R.S.O. 1970, c. 89, s. 82.

Place of
meetings

82.—(1) Subject to subsections (2) and (3), the meetings of the shareholders, the board of directors and the executive committee shall be held at the place where the head office of the company is situate.

Exception

(2) Where the by-laws of the company so provide, the meetings of the board of directors and of the executive committee may be held at any place in or outside Ontario and the meetings of the shareholders may be held at any place in Ontario.

Exception

(3) Where the letters patent or supplementary letters patent of the company so provide, the meetings of the shareholders may be held at one or more places outside Ontario designated therein.

Where
section not
to apply

(4) This section does not affect the operation of any provision in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954, respecting the holding of the meetings of the shareholders at any place outside Ontario. R.S.O. 1970, c. 89, s. 83.

Interpre-
tation

83. In this section and in sections 84 to 90,

(a) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;

(b) “information circular” means the circular referred to in subsection 86 (1);

(c) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;

(d) “solicit” and “solicitation” include,

- (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
- (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
- (iii) the sending or delivery of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
- (iv) the sending or delivery of a form of proxy to a shareholder pursuant to section 85,

but do not include,

- (v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or
- (vi) the performance by any person of ministerial acts or professional services on behalf of a person soliciting a proxy. R.S.O. 1970, c. 89, s. 84.

84.—(1) Every shareholder, including a shareholder that ^{Proxies} is a corporation, entitled to vote at a meeting of shareholders may by means of a proxy appoint a person, who need not be a shareholder, as his nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

(2) A proxy shall be executed by the shareholder or his ^{Execution and termination} attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and ceases to be valid one year from its date.

(3) In addition to the requirements, ^{Contents} were applicable, of section 88, a proxy shall contain the date thereof and the appointment and name of the nominee and may contain a revocation of a former proxy and restrictions, limitations or

instructions as to the manner in which the shares in respect of which the proxy is given are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the company are listed on a stock exchange or a restriction or limitation as to the number of shares in respect of which the proxy is given.

Revocation

(4) In addition to revocation in any other manner permitted by law, a proxy may be revoked by instrument in writing executed by the shareholder or by his attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and deposited either at the head office of the company at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used or with the chairman of such meeting on the day of the meeting, or adjournment thereof, and upon either of such deposits the proxy is revoked.

**Time limit
for deposit**

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the company or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting or in the information circular relating thereto. R.S.O. 1970, c. 89, s. 85.

**Mandatory
solicitation
of proxies**

85.—(1) Subject to section 87, the management of a company shall, concurrently with or prior to giving notice of a meeting of shareholders of the company, send by prepaid mail to each shareholder who is entitled to vote at such meeting at his last address as shown on the books of the company a form of proxy for use at such meeting that complies with section 88.

Offence

(2) If the management of a company fails to comply with subsection (1), the company is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and every director or officer of the company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 86.

**Information
circular**

86.—(1) Subject to subsection (2) and section 87, no person shall solicit proxies unless,

(a) in the case of a solicitation by or on behalf of the management of a company, an information cir-

cular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each shareholder of the company whose proxy is solicited at his last address as shown on the books of the company; or

- (b) in the case of any other solicitation, the person making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each shareholder of the company whose proxy is solicited.

(2) Subsection (1) does not apply to,

Where subs. (1)
does not
apply

- (a) any solicitation, otherwise than by or on behalf of the management of a company, where the total number of shareholders whose proxies are solicited is not more than fifteen, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder;

- (b) any solicitation by a person made under section 48 of the *Securities Act*; and

R.S.O. 1980,
c. 466

- (c) any solicitation by a person in respect of shares of which he is the beneficial owner.

(3) A person who fails to comply with subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on conviction is liable to a like fine.

Offence

(4) A person who effects a solicitation that is subject to this section by means of a form of proxy, information circular or other communication that contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a like fine.

Idem

(5) No person is guilty of an offence under subsection (4) in respect of any untrue statement of a material fact or omission to state a material fact in a form of proxy or

Saving

information circular, if the untruth of such statement or the fact of such omission was not known to the person who effected the solicitation and in the exercise of reasonable diligence could not have been known to such person. R.S.O. 1970, c. 89, s. 87.

Where
ss. 85, 86 (1)
do not apply

87.—(1) Section 85 and subsection 86 (1) do not apply to a private company or to a public company that has fewer than fifteen shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder.

Exemption
orders

(2) Upon the application of any interested person, the Commission may, if satisfied that in the circumstances of the particular case there is adequate justification for so doing, make an order, on such terms and conditions as seem to the Commission to be just and expedient, exempting any person from the requirements, in whole or in part, of section 85 or of subsection 86 (1).

Hearing of
Commission
R.S.O. 1980,
c. 466

(3) The provisions of the *Securities Act* respecting hearings by the Commission apply, so far as possible, to hearings of the Commission under this section.

Appeal from
Commission

(4) Any person who feels aggrieved by a decision of the Commission under this section may appeal the decision to the Divisional Court, and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. R.S.O. 1970, c. 89, s. 88.

Special form
of proxy

88. Where section 85 or 86 is applicable to a solicitation of proxies,

(a) the form of proxy sent to a shareholder by a person soliciting proxies,

(i) shall indicate in bold-face type whether or not the proxy is solicited by or on behalf of the management of the company, and

(ii) shall provide a specifically designated blank space for dating the form of proxy;

(b) the form of proxy shall provide means whereby the person whose proxy is solicited is afforded an opportunity to specify that the shares registered in his name shall be voted by the nominee in favour of or against, in accordance with such person's choice, each matter or group of related matters identified therein or in the information

circular as intended to be acted upon, other than the election of directors and the appointment of auditors, provided that a proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by such means if the form of proxy or the information circular states in bold-face type how it is intended to vote the shares represented by the proxy in each such case;

(c) a proxy may confer discretionary authority with respect to,

- (i) amendments or variations to matters identified in the notice of meeting, or
- (ii) other matters which may properly come before the meeting,

provided that,

- (iii) the person by whom or on whose behalf the solicitation is made is not aware a reasonable time prior to the time the solicitation is made that any such amendments, variations or other matters are to be presented for action at the meeting, and
- (iv) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority;

(d) no proxy shall confer authority,

- (i) to vote for the election of any person as a director of the company unless a *bona fide* proposed nominee for such election is named in the information circular, or
- (ii) to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof;

(e) the information circular or form of proxy shall state that the shares represented by the proxy will be voted and that, where the person whose proxy is solicited specifies a choice with respect to any matter to be acted upon pursuant to clause (b), the shares shall, subject to section 89, be voted in accordance with the specifications so made;

(f) the information circular or form of proxy shall indicate in bold-face type that the shareholder has the right to appoint a person to attend and act for him and on his behalf at the meeting other than the person, if any, designated in the form of proxy, and shall contain instructions as to the manner in which the shareholder may exercise such right; and

(g) if the form of proxy contains a designation of a named person as nominee, means shall be provided whereby the shareholder may designate in a form of proxy some other person as his nominee for the purpose of subsection 84(1). R.S.O. 1970, c. 89, s. 89.

Where vote
by ballot not
required

89. If the aggregate number of shares represented at a meeting by proxies required to be voted for or against a particular matter or group of matters carries, to the knowledge of the chairman of the meeting, less than 5 per cent of the voting rights attached to the shares entitled to vote and represented at the meeting, the chairman of the meeting has the right not to conduct a vote by way of ballot on any such matter or group of matters unless a poll is demanded at the meeting. R.S.O. 1970, c. 89, s. 90.

Regulations
re contents
of informa-
tion circular

90. The Lieutenant Governor in Council may make such regulations respecting the form and content of an information circular as he considers necessary or appropriate in the public interest. R.S.O. 1970, c. 89, s. 91.

Trustees,
etc., may
vote

91. An executor, administrator, committee of a mentally incompetent person, guardian or trustee, and, where a corporation is such executor, administrator, committee, guardian or trustee of a testator, intestate, mentally incompetent person, ward or *cestui que trust*, any person duly appointed a proxy for such corporation, shall represent the shares in his hands at all meetings of the shareholders of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the shares at all such meetings and may vote accordingly as a shareholder unless in the instrument creating the mortgage or hypothec he has expressly empowered the holder of such mortgage or hypothec to vote thereon, in which case only such holder or his proxy may vote in respect of such shares. R.S.O. 1970, c. 89, s. 92.

Joint holders
of stock

92. If shares are held jointly by two or more persons, any one of them present at a meeting of the shareholders of the company may, in the absence of the other or others,

vote thereon, but, if more than one of them are present or represented by proxy, they shall vote together on the shares jointly held. R.S.O. 1970, c. 89, s. 93.

93.—(1) Subject to subsection (2) and in the absence of other provisions in that behalf in the by-laws of the company, ^{Shareholders' meetings}

- (a) notice of the time and place for holding a meeting of the shareholders shall, unless all the shareholders entitled to notice of the meeting have waived in writing the notice, be given by sending it to each shareholder entitled to notice of the meeting by pre-paid mail ten days or more before the date of the meeting to his last address as shown on the books of the company;
- (b) no shareholder in arrear in respect of any call is entitled to vote at a meeting;
- (c) all questions proposed for the consideration of the shareholders at a meeting of shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (d) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (e) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman;
- (f) unless a poll is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

Notice

(2) The by-laws of the company shall not provide for fewer than ten days notice of meetings of shareholders and shall not provide that notice may be given otherwise than individually.

Poll

(3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman directs. R.S.O. 1970, c. 89, s. 94.

Auditors

94.—(1) The shareholders of a company at their first general meeting shall appoint one or more auditors to hold office until the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.

Idem

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the next annual meeting and, if an appointment is not so made, the auditor in office shall continue in office until a successor is appointed.

Casual
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal

(4) The shareholders may, by resolution passed by at least two-thirds of the votes cast at a general meeting of which notice of intention to pass the resolution has been given, remove any auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Remunera-
tion

(5) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appointment
by Minister

(6) If for any reason no auditor is appointed, the Minister may, on the application of a shareholder, appoint one or more auditors for that year and fix the remuneration to be paid by the company for his or their services.

Notice

(7) Notice of the appointment of an auditor shall be given in writing to him forthwith after the appointment is made. R.S.O. 1970, c. 89, s. 95.

Qualification
of auditor

95.—(1) Except as provided in subsection (2), no person shall be appointed as auditor of a company who is a director, officer or employee of that company or an affiliated company

or who is a partner, employer or employee of any such director, officer or employee.

(2) Upon the unanimous vote of the shareholders of a ^{Private companies} private company present or represented at the meeting at which the auditor is appointed, a director, officer or employee of that company or an affiliated company, or a partner, employer or employee of such director, officer or employee may be appointed as auditor of that company, if it is not a subsidiary company of a company incorporated by any legislative jurisdiction in Canada which is not a private company within the meaning of this Act.

(3) A person appointed as auditor under subsection (2) ^{Notice} shall indicate in his report to the shareholders on the annual financial statement of the company that he is a director, officer or employee of the company or a partner, employer or employee of such director, officer or employee. R.S.O. 1970, c. 89, s. 96.

96.—(1) The auditor shall make such examination as will ^{Annual audit} enable him to report to the shareholders as required under subsection (2).

(2) The auditor shall make a report to the shareholders on the financial statement, other than the part thereof that relates to the period referred to in subclause 97 (1) (b) (ii), to be laid before the company at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the company and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period. ^{Auditor's report}

(3) If the financial statement contains a statement of ^{Idem} source and application of funds or a statement of changes in net assets, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of source and application of funds or the statement of changes in net assets presents fairly the information shown therein.

(4) The auditor in his report shall make such statements ^{Idem} as he considers necessary,

(a) if the company's financial statement is not in agreement with its accounting records;

(b) if the company's financial statement is not in accordance with the requirements of this Act;

(c) if he has not received all the information and explanations that he has required; or

(d) if proper accounting records have not been kept, so far as appears from his examination.

Right of
access, etc.

(5) The auditor of a company has right of access at all times to all records, documents, books, accounts and vouchers of the company and is entitled to require from the directors and officers of the company such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2).

Auditor
may attend
share-
holders'
meetings

(6) The auditor of a company is entitled to attend any meeting of shareholders of the company and to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. R.S.O. 1970, c. 89, s. 97.

Information
to be laid
before
annual
meeting

97.—(1) The directors shall lay before each annual meeting of shareholders,

(a) in the case of a private company, a financial statement for the period that commenced on the date of incorporation and ended not more than six months before such annual meeting or, if the company has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before such annual meeting, as the case may be, made up of,

(i) a statement of profit and loss for such period,

(ii) a statement of surplus for such period, and

(iii) a balance sheet as at the end of such period;

(b) in the case of a public company, a comparative financial statement relating separately to,

(i) the period that commenced on the date of incorporation and ended not more than six months before such annual meeting or, if the company has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before such annual meeting, as the case may be, and

- (ii) the period covered by the financial year next preceding such latest completed financial year, if any,

made up of,

- (iii) a statement of profit and loss for each period,
 - (iv) a statement of surplus for each period,
 - (v) in the case of a company that is a mutual fund company or investment company as defined in the regulations under the *Securities Act*, a statement of changes in net assets for each period, R.S.O. 1980, c. 466
 - (vi) in the case of a company other than one referred to in subclause (v), a statement of source and application of funds for each period, and
 - (vii) a balance sheet as at the end of each period;
- (c) the report of the auditor to the shareholders;
- (d) such further information respecting the financial position of the company as the letters patent, supplementary letters patent or by-laws of the company require.

(2) It is not necessary to designate the statements referred to in subsection (1) as the statement of profit and loss, statement of surplus, statement of source and application of funds and balance sheet. Designation of statements

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. Auditor's report to be read

(4) Notwithstanding clause (1) (b), the financial statement referred to in such clause may relate only to the period that ended not more than six months before the annual meeting if the reason for the omission of the statement in respect of the period covered by the previous financial statement is set out in the financial statement to be laid before such meeting or by way of note thereto. Omission of comparative statement

(5) Notwithstanding subclauses (1) (b) (v) and (vi), the statement of changes in net assets and the statement of source and application of funds may be omitted if the reason for such omission Omission of source and application statement

is set out in the financial statement or by way of note thereto. R.S.O. 1970, c. 89, s. 98.

Statement
of profit
and loss

98.—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the company for the period covered by the statement and so as to distinguish severally at least,

- (a) in the case of a public company, sales or gross operating revenue;
- (b) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;
- (c) income from investments in subsidiaries whose financial statements are not consolidated with those of the company;
- (d) income from investments in affiliated companies other than subsidiaries;
- (e) income from other investments;
- (f) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (g) provision for depreciation or obsolescence or depletion;
- (h) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (i) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense;
- (j) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period.

Notes

(2) Notwithstanding subsection (1), items of the natures described in clauses (1) (g) and (h) may be shown by way of note to the statement of profit and loss.

(3) The statement of profit and loss of a mutual fund company or an investment company, as defined in the regulations made under the *Securities Act*, shall also distinguish the average net investment income per share and an item of this nature may be shown by way of note to the statement of profit and loss.

Mutual fund or investment companies
R.S.O. 1980, c. 466

(4) A public company may apply to the Commission for an order permitting sales or gross operating revenue referred to in clause (1) (a) of this section or subclause 110 (1) (c) (i) to be omitted from the statement of profit and loss or the interim financial statement, as the case may be, and the Commission may, on such terms and conditions as it may impose, permit such omission where it is satisfied that in the circumstances the disclosure of such information would be unduly detrimental to the interests of the company.

Order for omission of sales or gross operating revenue

(5) The provisions of the *Securities Act* respecting hearings by the Commission apply, so far as possible, to hearings of the Commission under this section.

Hearing of Commission

(6) Any person who feels aggrieved by a decision of the Commission under this section may appeal the decision to the Divisional Court, and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. R.S.O. 1970, c. 89, s. 99.

Appeal from Commission

99.—(1) The statement of surplus shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus.

Statement of surplus

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish the following items:

Contributed surplus

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,

(a) the amount of surplus arising from the issue of shares or the reorganization of the company's issued capital, including *inter alia*,

(i) the amount of premiums received on the issue of shares at a premium,

(ii) the amount of surplus realized on the purchase for cancellation of shares; and

(b) donations of cash or other property by shareholders.

3. The balance of such surplus at the end of the financial period.

Earned
surplus

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.

2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:

i. The amount of the net profit or loss for the financial period.

ii. The amount of dividends declared on each class of shares.

iii. The amount transferred to or from reserves.

3. The balance of such surplus at the end of the financial period. R.S.O. 1970, c. 89, s. 100.

Statement
of source and
application
of funds

100. The statement of source and application of funds referred to in subclause 97 (1) (b) (vi) and clause 110 (1) (b) shall be drawn up so as to present fairly the information shown therein for the period, and shall show separately at least,

(a) funds derived from,

(i) current operations,

(ii) sale of non-current assets, segregating investments, fixed assets and intangible assets,

(iii) issue of securities or other indebtedness maturing more than one year after issue, and

(iv) issue of shares; and

(b) funds applied to,

(i) purchase of non-current assets, segregating investments, fixed assets and intangible assets,

- (ii) redemption or other retirement of securities or repayment of other indebtedness maturing more than one year after issue,
- (iii) redemption or other retirement of shares, and
- (iv) payment of dividends. R.S.O. 1970, c. 89, s. 101.

101.—(1) The statement of changes in net assets referred to in subclause 97 (1) (b) (v) and clause 110 (1) (a) shall be drawn up so as to present fairly the information shown therein for the period and shall show separately at least, Statement
of changes
in net assets

- (a) net assets at beginning of the period;
- (b) net investment income or loss;
- (c) aggregate proceeds on sale of portfolio investments;
- (d) aggregate cost of portfolio investments owned at beginning of the period;
- (e) aggregate cost of purchases of portfolio investments;
- (f) aggregate cost of portfolio investments owned at end of the period;
- (g) aggregate cost of portfolio investments sold;
- (h) realized profit or loss on investments sold;
- (i) distributions, showing separately the amount out of net investment income and out of realized profits;
- (j) proceeds from shares issued;
- (k) cost of shares redeemed;
- (l) net increase or decrease in unrealized appreciation or depreciation of portfolio investments;
- (m) net assets at end of the period;
- (n) net asset value per share at end of the period;
- (o) net asset value per share at beginning of the period;

(*p*) distribution per share out of net investment income;

(*q*) distribution per share out of realized profits.

Note to
statement

(2) Notwithstanding subsection (1), items of the natures described in clauses (1) (*n*), (*o*), (*p*) and (*q*) may be shown by way of note to the statement of changes in net assets. R.S.O. 1970, c. 89, s. 120.

Balance
sheet

102.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the company as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the company from its directors, officers or shareholders, except debts of reasonable amount arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.
3. Debts owing to the company, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the company.
4. Debts owing to the company, whether on account of a loan or otherwise, from affiliated companies other than subsidiaries.
5. Other debts owing to the company, segregating those that arose otherwise than in the ordinary course of its business.
6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the company, except those referred to in items 8 and 9, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
8. Shares or securities of subsidiaries whose financial statements are not consolidated with those of the company, stating the basis of valuation.
9. Shares or securities of affiliated companies other than subsidiaries, stating the basis of valuation.

10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the company of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
11. There shall be stated under separate headings, in so far as they are not written off, (i) expenditures on account of future business; (ii) any expense incurred in connection with any issue of shares; (iii) any expense incurred in connection with any issue of securities, including any discount thereon; and (iv) any one or more of the following: goodwill, franchises, patents, copyrights, trade marks and other intangible assets and the amount, if any, by which the value of any such assets has been written up after the 30th day of April, 1954.
12. The aggregate amount of any outstanding loans under clauses 24 (2) (c), (d) and (e).
13. Bank loans and overdrafts.
14. Debts owing by the company on loans from its directors, officers or shareholders.
15. Debts owing by the company to subsidiaries whose financial statements are not consolidated with those of the company, whether on account of a loan or otherwise.
16. Debts owing by the company to affiliated companies other than subsidiaries whether on account of a loan or otherwise.
17. Other debts owing by the company, segregating those that arose otherwise than in the ordinary course of its business.
18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
19. Dividends declared but not paid.

20. Deferred income.
21. Securities issued by the company, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
 - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and
 - (b) where any shares have not been fully paid,
 - (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
 - (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.
24. Contributed surplus.
25. Earned surplus.
26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period.

Notes

(2) Explanatory information or particulars of any item mentioned in subsection (1) may be shown by way of note to the balance sheet. R.S.O. 1970, c. 89, s. 103.

Notes to
financial
statement

103.—(1) There shall be stated by way of note to the financial statement particulars of any change in accounting principle or practice or in the method of applying any

accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period.

(2) For the purpose of subsection (1), a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period, even though it did not have a material effect upon the profit or loss for the period. ^{Change in accounting practice}

(3) Where applicable, the following matters shall be referred to in the financial statement or by way of note thereto: ^{Idem}

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the company.
3. Contractual obligations that will require abnormal expenditures in relation to the company's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the company, stating the liability so secured.
7. Any default of the company in principal, interest, sinking fund or redemption provisions with respect to any issue of its securities or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.

9. Where a company has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. The aggregate direct remuneration paid or payable by the company and its subsidiaries whose financial statements are consolidated with those of the company to the directors, and the senior officers as defined by clause 72 (1) (f), of the company and, as a separate amount, the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the company whose financial statements are not consolidated with those of the company.
11. In the case of a holding company, the aggregate of any shares in, and the aggregate of any securities of, the holding company held by subsidiary companies whose financial statements are not consolidated with that of the holding company.
12. The amount of any loans by the company, or by a subsidiary company, otherwise than in the ordinary course of business, during the company's financial period, to the directors or officers of the company.
13. Any restriction by the letters patent, supplementary letters patent or by-laws of the company or by contract on the payment of dividends that is significant in the light of the company's financial position.
14. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement.
15. In the case of a public company, the amount of any obligation for pension benefits arising from service prior to the date of the balance sheet, whether or not such obligation has been provided for in the accounts of the company, the manner in which the company proposes to satisfy such obligation and the basis on which it has charged or proposes to charge the related costs against operations.

Idem

(4) A note to a financial statement is a part of it. R.S.O. 1970, c. 89, s. 104.

104. Notwithstanding sections 98 to 103, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. R.S.O. 1970, c. 89, s. 105. Insignificant
circum-
stances

105.—(1) A company, in this section referred to as “the holding company”, may include in the financial statement to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form. Consolidated
financial
statement

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding company are not so included in the financial statement of the holding company, Idem

(a) the financial statement of the holding company shall include a statement setting forth,

- (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding company,
- (ii) if there is only one such subsidiary, the amount of the holding company's proportion of the profit or loss of such subsidiary for the financial period coinciding with or ending in the financial period of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate profits less losses, or losses less profits, of all such subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding company,
- (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding company and the amount included therein as a provision for the loss or losses of such subsidiary or subsidiaries,
- (iv) if there is only one such subsidiary, the amount of the holding company's proportion of the undistributed profits of such subsidiary earned since the acquisition of the shares of

such subsidiary by the holding company to the extent that such amount has not been taken into the accounts of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate undistributed profits of all such subsidiaries earned since the acquisition of their shares by the holding company less its proportion of the losses, if any, suffered by any such subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding company,

- (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the company's own financial statement and is material from the point of view of its shareholders;
- (b) if for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding company, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement;
- (c) true copies of the latest financial statement of such subsidiary or subsidiaries shall be kept on hand by the holding company at its head office and shall be open to inspection by the shareholders of the holding company on request during the normal business hours of the holding company, but the directors of the holding company may by resolution refuse the right of such inspection if such inspection is not in the public interest or would prejudice the holding company or such subsidiary or subsidiaries, which resolution may, on the application of any such shareholder to the court, be set aside by the court;

(d) if, in the opinion of the auditor of the holding company, adequate provision has not been made in the financial statement of the holding company for the holding company's proportion,

(i) where there is only one such subsidiary, of the loss of such subsidiary suffered since acquisition of its shares by the holding company, or

(ii) where there is more than one such subsidiary, of the aggregate losses suffered by such subsidiaries since acquisition of their shares by the holding company in excess of its proportion of the undistributed profits, if any, earned by any of such subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor. R.S.O. 1970, c. 89, s. 106.

106.—(1) For the purposes of this Act, a company shall be deemed to be a subsidiary of another company if, but only if, Definitions:
subsidiary
company

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more companies each of which is controlled by that other, or

(iii) two or more companies each of which is controlled by that other; or

(b) it is a subsidiary of a company that is that other's subsidiary.

(2) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary. holding
company

(3) For the purposes of this Act, one company shall be deemed to be affiliated with another company if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person. affiliated
company

Control

(4) For the purposes of this Act, a company shall be deemed to be controlled by another company or person or by two or more companies if, but only if,

- (a) shares of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other company or person or by or for the benefit of such other companies; and
- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company. R.S.O. 1970, c. 89, s. 107.

Reserves

107. In a financial statement, the term “reserve” shall be used to describe only,

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the company for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. R.S.O. 1970, c. 89, s. 108.

Approval of
financial
statement

108. The financial statement shall be approved by the board of directors, such approval to be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign, and the auditor's report shall be attached to the financial statement or there shall be inserted at the foot of the balance sheet a reference to the report. R.S.O. 1970, c. 89, s. 109.

109.—(1) A public company shall, ten days or more before the date of the annual meeting, send by prepaid mail to each shareholder at his last address as shown on the books of the company a copy of the financial statement and a copy of the auditor's report.

Mailing of
financial
statement
to share-
holders

(2) A shareholder of a private company is entitled to be furnished by the company on demand with a copy of the documents mentioned in subsection (1).

Financial
statement,
private
companies

(3) A company that fails to comply with subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$200, and every director or officer of the company who authorizes, permits or acquiesces in any such failure is guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 110.

Offence

110.—(1) A public company shall send to each shareholder a copy of a comparative interim financial statement for the six-month period that commenced on the date of incorporation or, if the company has completed a financial year, for the six-month period that commenced immediately after the end of the last completed financial year and for the comparable six-month period, if any, in the twelve months immediately preceding the commencement of the six-month period in respect of which such interim financial statement is issued, made up of,

Comparative
interim
financial
statement

- (a) in the case of a company that is a mutual fund company or investment company as defined in the regulations under the *Securities Act*, a statement of changes in net assets for each period that complies with section 101;
- (b) in the case of a company other than one referred to in clause (a), a statement of source and application of funds for each period that complies with section 100; and
- (c) sufficient relevant financial information in summary form to present fairly the results of the operations of the company for each period, including,
 - (i) a statement of sales or gross operating revenue,
 - (ii) extraordinary items of income or expense,

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(iii) net income before taxes on income imposed by any taxing authority,

(iv) taxes on income imposed by any taxing authority, and

(v) net profit or loss.

Idem

(2) The interim financial statement required by subsection (1) may omit either or both of,

(a) the information relating to the comparable period; and

(b) the statement of changes in net assets or the statement of source and application of funds,

if the reason for the omission or omissions, as the case may be, is set out in the interim financial statement or by way of note thereto.

Idem

(3) There shall be stated by way of note to the interim financial statement required by subsection (1) particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of such statement with the statement for the preceding period or with the interim financial statement for a part of the preceding period, and the effect, if material, of any such change upon the profit or loss for the period covered by the interim financial statement.

Idem

(4) For the purpose of subsection (3), a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period or part thereof, even though it did not have a material effect upon the profit or loss for the period covered by the interim financial statement.

Idem

(5) The interim financial statement required by subsection (1) shall be sent by prepaid mail to each shareholder, within sixty days of the date to which it is made up, at his last address as shown on the books of the company.

Offence

(6) A company that fails to comply with any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and every director or officer of the company who authorized, permitted or acquiesced in any such

failure is guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 111.

111.—(1) Except in the cases mentioned in this section, a company shall not be a shareholder of a company that is its holding company, and any allotment or transfer of shares of a company to its subsidiary company is void. Subsidiaries not to hold shares of holding companies

(2) This section does not apply to a subsidiary holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. Application

(3) This section does not prevent a subsidiary that on the 30th day of April, 1954, held shares of its holding company from continuing to hold such shares, but, subject to subsection (2), the subsidiary has no right to vote at meetings of shareholders of the holding company or at meetings of any class of shareholders thereof. Exception

(4) Subject to subsection (2), subsections (1) and (3) apply in relation to a nominee for a company that is a subsidiary as if the references in subsections (1) and (3) to such a company included references to a nominee for it. R.S.O. 1970, c. 89, s. 112. Nominees

112.—(1) In this section, “arrangement” includes a re-organization of the authorized capital of a company and includes, without limiting the generality of the foregoing, the consolidation of shares of different classes, the reclassification of shares of a class into shares of another class and the variation of the terms, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares of any class, and includes a reconstruction under which a company transfers or sells or proposes to transfer or to sell to another company the whole or a substantial part of its undertaking for a consideration consisting in whole or in part of shares or securities of the other company and in which it proposes to distribute a part of such consideration among its shareholders of any class or to cease carrying on its undertaking or the part of its undertaking so transferred or sold or so proposed to be transferred or sold. Interpretation

(2) Where an arrangement is proposed between a company and its shareholders or a class or classes of them Arrangements

affecting the rights of such shareholders or class or classes under the company's letters patent or supplementary letters patent or by-laws, the court may, on application of the company or of a shareholder, order a meeting of the shareholders of the company or of the class or classes affected, as the case may be, to be held on twenty-one days notice, or such shorter time as the court directs, served in such manner as the court directs.

Contents
of notice
calling
meeting

(3) Where a meeting of the shareholders or of any class or classes of shareholders is called under subsection (2), the notice calling the meeting shall contain a statement explaining the effect of the arrangement and in particular stating any interest of the directors of the company, whether as directors or as shareholders of the company or otherwise, and the effect thereon of the arrangement, in so far as it is different from the effect on the like interest of other persons.

Sanction
by court

(4) If the shareholders of the company or of the class or classes affected, as the case may be, present in person or by proxy at the meeting, agree by at least three-fourths of the shares of each class represented to the arrangement either as proposed or as varied at the meeting, the arrangement may be sanctioned by the court and, if so sanctioned, the arrangement and any decrease or increase in the authorized capital and any provisions for the allotment or disposition thereof by sale or otherwise as therein set forth may be confirmed by supplementary letters patent and thereupon is binding on the company and on the shareholders of the company or on the class or classes of shareholders affected.

Notice to
dissenters

(5) If dissenting votes are cast at the meeting and, notwithstanding such dissenting votes, the arrangement is agreed to by the shareholders or the class or classes represented in accordance with subsection (4) and unless the court in its discretion otherwise orders, the company shall notify each dissenting shareholder in such manner as the court directs of the time and place when application will be made to it for the sanction of the arrangement. R.S.O. 1970, c. 89, s. 113.

Amalga-
mation

113.—(1) Any two or more companies, including a holding and subsidiary company, having the same or similar objects may amalgamate and continue as one company.

Agreement

(2) The companies proposing to amalgamate may enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect and stating the name of the amalgamated company, the names, callings and places

of residence of the first directors thereof and how and when the subsequent directors are to be elected with such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the amalgamated company, the authorized capital of the amalgamated company and the manner of converting the authorized capital of each of the companies into that of the amalgamated company.

(3) The agreement shall be submitted to the shareholders of each of the amalgamating companies at general meetings thereof called for the purpose of considering the agreement, and, if two-thirds of the votes cast at each such meeting are in favour of the adoption of the agreement, that fact shall be certified upon the agreement by the secretary of each of the amalgamating companies under the corporate seal thereof.

(4) If the agreement is adopted in accordance with subsection (3), the amalgamating companies may apply jointly to the Lieutenant Governor for letters patent confirming the agreement and amalgamating the companies so applying, and on and from the date of the letters patent such companies are amalgamated and are continued as one company by the name in the letters patent provided, and the amalgamated company possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating companies. R.S.O. 1970, c. 89, s. 114.

114.—(1) Where a company has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected, the directors may pass by-laws for distributing in money, kind, specie or otherwise the property of the company or any part of it rateably among the shareholders according to their rights and interests in the company.

(2) The by-law is not effective until it has been confirmed by two-thirds of the votes cast at a meeting of the shareholders duly called for considering the by-law nor until it has been confirmed by the Lieutenant Governor in Council. R.S.O. 1970, c. 89, s. 115.

115.—(1) If a private company contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, it ceases to be

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entitled to the privileges and exemptions conferred on private companies under this Act and under the *Corporations Information Act*, and thereupon this Act and that Act apply to the company as if it were not a private company.

Relief

(2) The court, on being satisfied that any such contravention was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as the court considers proper, order that the company be relieved from the consequences mentioned in subsection (1).

Offence

(3) In addition to the consequences mentioned in subsection (1), every private company that contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, and every director or officer of the company who authorizes, permits or acquiesces in any such contravention, is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 116.

Private
company,
rights of
dissenting
shareholders

116.—(1) If, in the case of a private company, at a meeting of shareholders,

- (a) a resolution passed by the directors authorizing the sale or disposition of the undertaking of the company or any part thereof as an entirety or substantially as an entirety is confirmed with or without variation by the shareholders; or
- (b) a resolution passed by the directors authorizing an application for the issue of supplementary letters patent providing for the conversion of the company into a public company is confirmed with or without variation by the shareholders; or
- (c) an agreement for the amalgamation of the company with one or more other companies, whether public or private, is confirmed by the shareholders,

any shareholder who has voted against the confirmation of such resolution or agreement, as the case may be, may within two days after the date of the meeting give notice in writing to the company requiring it to purchase his shares.

(2) Within ninety days from the date of the completion of the sale or disposition or the issue of the supplementary letters patent or the letters patent, as the case may be, the company shall purchase the shares of every shareholder who has given notice under subsection (1). Company bound to purchase shares

(3) The company shall not purchase any shares under subsection (2) if it is insolvent or if such purchase would render the company insolvent. Saving

(4) The price and terms of the purchase of such shares shall be as may be agreed upon by the company and the dissenting shareholder, but, if they fail to agree, the price and terms shall be as determined by the court on the application of the dissenting shareholder. Price of shares

(5) Any shares purchased under subsection (2) shall not be cancelled by reason only of such purchase, and may be sold by the company at such price and on such terms as the directors determine. Sale of shares

(6) If the sale or disposition is not completed or the supplementary letters patent or letters patent are not issued, the rights of the dissenting shareholder under this section cease and the company shall not purchase the shares of such shareholder under this section. R.S.O. 1970, c. 89, s. 117. Where sale not completed

PART III

CORPORATIONS WITHOUT SHARE CAPITAL

117. This Part, except where it is otherwise expressly provided, applies, Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway. R.S.O. 1970, c. 89, s. 118.

Nature of
corporations

118. A corporation may be incorporated to which Part V applies or that has objects that are of a patriotic, religious, philanthropic, charitable, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic nature or that are of any other useful nature. R.S.O. 1970, c. 89, s. 119.

Application
for incor-
poration

119.—(1) The applicants for the incorporation of a corporation shall file with the Lieutenant Governor an application showing:

1. The names in full, the place of residence and the calling of each of the applicants.
2. The name of the corporation to be incorporated.
3. The objects for which the corporation is to be incorporated.
4. The place in Ontario where the head office of the corporation is to be situate.
5. The names of the applicants who are to be the first directors of the corporation.
6. Any other matters that the applicants desire to have embodied in the letters patent.

Idem

(2) The applicants may ask to have embodied in the letters patent any provision that may be made the subject of a by-law of the corporation. R.S.O. 1970, c. 89, s. 120.

Classes of
membership

120. The letters patent, supplementary letters patent or by-laws of a corporation may provide for more than one class of membership and in that case shall set forth the designation of and the terms and conditions attaching to each class. R.S.O. 1970, c. 89, s. 121.

Applicants
become
members

121. Upon incorporation of a corporation, each applicant becomes a member thereof. R.S.O. 1970, c. 89, s. 122.

Members
not liable

122. A member shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the corporation or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the corporation. R.S.O. 1970, c. 89, s. 123.

Number of
members

123. Unless the letters patent, supplementary letters patent or by-laws of a corporation otherwise provide, there is no limit on the number of members of the corporation. R.S.O. 1970, c. 89, s. 124.

124.—(1) Subject to subsection (2), persons may be admitted to membership in a corporation by resolution of the board of directors, but the letters patent, supplementary letters patent or by-laws may provide that such resolution is not effective until it has been confirmed by the members in general meeting. ^{Admission to membership}

(2) The letters patent, supplementary letters patent or by-laws of a corporation may provide for the admission of members *ex officio*. ^{Idem} R.S.O. 1970, c. 89, s. 125.

125. Each member of each class of members of a corporation has one vote, unless the letters patent, supplementary letters patent or by-laws of the corporation provide that each such member has more than one vote or has no vote. ^{Voting powers of members} R.S.O. 1970, c. 89, s. 126.

126.—(1) A corporation, except a corporation to which Part V applies, shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects and the letters patent shall so provide, and, where a company is converted into a corporation, the supplementary letters patent shall so provide. ^{Not to be carried on for gain}

(2) Nothing in subsection (1) prohibits a director from receiving reasonable remuneration and expenses for his services to the corporation as a director or prohibits a director or member from receiving reasonable remuneration and expenses for his services to the corporation in any other capacity, unless the letters patent, supplementary letters patent or by-laws otherwise provide. ^{Exception} R.S.O. 1970, c. 89, s. 127.

127. Subject to section 286, the letters patent, supplementary letters patent or by-laws of a corporation may provide for persons becoming directors *ex officio* in lieu of election. ^{Directors ex officio} R.S.O. 1970, c. 89, s. 128.

128.—(1) Unless the letters patent or supplementary letters patent otherwise provide, the interest of a member in a corporation is not transferable and lapses and ceases to exist upon his death or when he ceases to be a member by resignation or otherwise in accordance with the by-laws of the corporation. ^{Memberships not transferable. termination}

(2) Where the letters patent or supplementary letters patent provide that the interest of a member in the corporation is transferable, the by-laws shall not restrict the transfer of such interest. ^{Where transferable} R.S.O. 1970, c. 89, s. 129 (1, 2).

By-laws

129.—(1) The directors of a corporation may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate,

- (a) the admission of persons and unincorporated associations as members and as *ex officio* members and the qualification of and the conditions of membership;
- (b) the fees and dues of members;
- (c) the issue of membership cards and certificates;
- (d) the suspension and termination of memberships by the corporation and by the member;
- (e) the transfer of memberships;
- (f) the qualification of and the remuneration of the directors and the *ex officio* directors, if any;
- (g) the time for and the manner of election of directors;
- (h) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;
- (i) the time and place and the notice to be given for the holding of meetings of the members and of the board of directors, the quorum at meetings of members, the requirement as to proxies, and the procedure in all things at members' meetings and at meetings of the board of directors;
- (j) the conduct in all other particulars of the affairs of the corporation.

Confirmation

(2) A by-law passed under subsection (1) and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the members duly called for that purpose, is effective only until the next annual meeting of the members unless confirmed thereat, and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the members.

(3) The members may at the general meeting or the annual meeting mentioned in subsection (2) confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law is prejudicially affected by any such rejection, amendment or other dealing. R.S.O. 1970, c. 89, s. 130.

130.—(1) The directors of a corporation may pass by-laws providing for, Rejection
By-laws
respecting
delegates

(a) the division of its members into groups, either territorially or on the basis of common interest;

(b) the election of some or all of its directors,

(i) by such groups on the basis of the number of members in each group, or

(ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;

(c) the election of delegates and alternative delegates to represent each group on the basis of the number of members in each group;

(d) the number and method of electing delegates;

(e) the holding of meetings of delegates;

(f) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members;

(g) the holding of meetings of members or delegates territorially or on the basis of common interest.

(2) No by-law passed under subsection (1) is effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the members duly called for considering the by-law. Confirmation

(3) A delegate has only one vote and shall not vote by proxy. Voting

Qualification
of delegates

(4) No person shall be elected a delegate who is not a member of the corporation.

Saving

(5) No such by-law shall prohibit members from attending meetings of delegates and participating in the discussions at such meetings. R.S.O. 1970, c. 89, s. 131.

Supple-
mentary
letters
patent

131.—(1) A corporation may apply to the Lieutenant Governor for the issue of supplementary letters patent,

(a) extending, limiting or otherwise varying its objects;

(b) changing its name;

(c) varying any provision in its letters patent or prior supplementary letters patent;

(d) providing for any matter or thing in respect of which provision may be made in letters patent under this Act;

(e) converting it into a company;

(f) converting it into a corporation, with or without share capital. R.S.O. 1970, c. 89, s. 132 (1), *revised*.

Author-
ization

(2) An application under clauses (1) (a) to (d) shall be authorized by a special resolution.

Idem

(3) An application under clauses (1) (e) to (f) shall be authorized by resolution of the board of directors and confirmed in writing,

(a) by 100 per cent of the members; or

(b) by at least 95 per cent of the members,

but, in the case of confirmation under clause (b), the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each member to his last address as shown on the books of the corporation and only if at the expiration of the twenty-one days none of the members has dissented in writing to the corporation.

(4) If the application is under clause (1) (e) or (f) and the corporation is to become a company, the application shall set forth the authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, the par value of each share or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued, and, where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them, and the terms and conditions on which the members will become shareholders.

Contents of
application
for conver-
sion into
company

(5) An application under subsection (1) may be made only within six months after the resolution has been confirmed by the members.

Time for
application

(6) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act may apply under this section for the issue of supplementary letters patent changing its name. R.S.O. 1970, c. 89, s. 132 (2-6).

Special Act
corporations
excepted

132.—(1) A corporation may pass by-laws providing that, upon its dissolution and after the payment of all debts and liabilities, its remaining property or part thereof shall be distributed or disposed of to charitable organizations or to organizations whose objects are beneficial to the community.

Disposition
of property
on dissolu-
tion

(2) Such a by-law is not effective until it has been confirmed by two-thirds of the votes cast at a general meeting of the members duly called for that purpose.

Confirmation

(3) Notice of a by-law passed under this section shall be filed with the Minister and published in *The Ontario Gazette* by the corporation within fourteen days after it has been confirmed.

Filing and
publication
of notice

(4) Every corporation that fails to comply with subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on conviction is liable to a like fine.

Offence

(5) In the absence of such by-law and upon the dissolution of the corporation, the whole of its remaining property

Where no
by-law

shall be distributed equally among the members or, if the letters patent, supplementary letters patent or by-laws so provide, among the members of a class or classes of members. R.S.O. 1970, c. 89, s. 133.

Application
of Part II
provisions
to Part III
corporations

133—(1) Section 22, clauses 23 (1) (*a*) to (*p*), (*s*), (*u*) and (*v*), subsection 23 (2), sections 59 to 61, 67, 69 to 71, 80 to 82, 84, 93 and 94, subsection 95 (1), section 96, clauses 97 (1) (*a*), (*c*) and (*d*), subsection 97 (3) and section 113 apply with necessary modifications to corporations to which this Part applies, and in so applying them the words “company” and “private company” mean “corporation” and the word “shareholder” means “member”.

Charitable
corporation

(2) Notwithstanding subsection (1), in the case of a corporation to which this Part applies, the objects of which are exclusively for charitable purposes, it is sufficient notice of any meeting of the members of the corporation if notice is given by publication at least once a week for two consecutive weeks next preceding the meeting in a newspaper or newspapers circulated in the municipality or municipalities in which the majority of the members of the corporation reside as shown by their addresses on the books of the corporation.

Insurers

(3) Clauses 97 (1) (*a*), (*c*) and (*d*), subsections 97 (2) and (3), subsection 98 (1), except clause (*a*) thereof, subsection 98 (2), sections 99, 102, 107 and 108 and subsections 109 (1) and (3) apply with necessary modifications to corporations to which Part V applies, and in so applying them the words “company” and “private company” mean “corporation” and the word “shareholder” means “member”. R.S.O. 1970, c. 89, s. 134, *revised*.

PART IV

MINING COMPANIES

Interpre-
tation

134. In this Part, “company” means a company to which this Part applies. R.S.O. 1970, c. 89, s. 135.

Application

135. This Part applies,

(*a*) to every mining company incorporated before the 1st day of July, 1907;

(*b*) to every mining company that was made subject to a predecessor of this Part by its letters patent

or supplementary letters patent where the subjection has not been removed by supplementary letters patent; and

- (c) to every mining company made subject to this Part by its letters patent or supplementary letters patent where the subjection has not been removed by supplementary letters patent. R.S.O. 1970, c. 89, s. 136.

136.—(1) The shares of a company shall be with par value. Par value shares only

(2) Subsection (1) does not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1970, c. 89, s. 137. Exception

137.—(1) Unless the letters patent, supplementary letters patent or by-laws otherwise provide, a company may issue its shares at a discount. Issue of shares at discount

(2) Notwithstanding subsection (1), preference shares shall not be issued at a discount. At par

(3) Where shares are to be issued at a discount, the rate of discount shall be specified in the resolution of the directors allotting such shares. R.S.O. 1970, c. 89, s. 138. Rate of discount

138. No shareholder of a company who holds shares that were validly issued at a discount before the 30th day of April, 1954, or that are validly issued at a discount on or after the 30th day of April, 1954, is personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. R.S.O. 1970, c. 89, s. 139. Shareholders' liability

139. A company shall have upon every share certificate issued by it distinctly written or printed in red ink, where such certificates are issued with respect to shares subject to call, the words "SUBJECT TO CALL" or, where issued with respect to shares not subject to call, the words "NOT SUBJECT TO CALL". R.S.O. 1970, c. 89, s. 140. Share certificates

PART V

INSURANCE CORPORATIONS

140. In this Part, unless the context otherwise requires, the words and expressions defined in section 1 of the Interpretation

R.S.O. 1980,
c. 218

Insurance Act have the same meaning as in that Act. R.S.O. 1970, c. 89, s. 160.

Application
of Part

141.—(1) This Part applies to all applications for incorporation of insurers intending to undertake contracts of insurance in Ontario, and to such insurers when incorporated, and to all insurers incorporated before the 30th day of April, 1954, under the laws of Ontario.

Application
of Act

(2) Except where inconsistent with this Part and except as provided in subsection (3), the other provisions of this Act apply to all such insurers.

Exception

(3) Sections 97 to 107 and 110 do not apply to insurers undertaking and transacting life insurance. R.S.O. 1970, c. 89, s. 161.

Incorporation
of
joint stock
insurance
companies

142.—(1) A joint stock insurance company may be incorporated for the purpose of undertaking and transacting any class of insurance for which a joint stock insurance company may be licensed under the *Insurance Act*.

Notice

(2) Applicants for incorporation shall, immediately before the application is made, publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply, and shall also, if so required by the Minister, publish elsewhere notice of such intention.

Notice to
Superin-
tendent

(3) Applicants for incorporation shall also give at least one month's notice to the Superintendent of their intention to apply for incorporation. R.S.O. 1970, c. 89, s. 162.

Interpre-
tation

143.—(1) In this section, "money received on account of shares" includes money received as premium on shares.

Authorized
capital

(2) The authorized capital of a company shall be not less than \$500,000.

Exception

(3) A company whose authorized capital immediately before the 13th day of June, 1968 was less than \$500,000 shall not decrease its authorized capital, and subsection (2) does not apply to the corporation until its authorized capital is increased to \$500,000 or more.

Par value
of shares

(4) The authorized capital shall be divided into shares of \$100 each, but, where not less than \$200,000 of the

authorized capital has been paid in in cash, the shares or any class of shares may be redivided into shares having a par value of \$1 or a multiple thereof, or an additional class or classes of shares having a par value of \$1 or a multiple thereof may be created.

(5) All money received on account of shares shall be paid into a branch or agency in Ontario of a chartered bank of Canada or into a registered trust company in trust for the proposed company, and no money paid on account of shares before the first general meeting of the company has been organized shall be withdrawn or paid over to the company until after such meeting has been organized and an election of directors held thereat.

Application
of money
received on
account of
shares

(6) A subscription for shares made before the granting of a licence under the *Insurance Act* shall contain the stipulation that all money received on account of shares will be returned to the subscribers without any deduction for promotion, organization or other expenses, in case the insurer fails to procure such a licence.

Return of
subscriptions
on failure
to secure
licence
R.S.O. 1980,
c. 218

(7) A subscription for shares shall contain the stipulation that no sum will be used or paid, before or after incorporation, for commission, promotion or organization expenses in excess of a percentage, not exceeding 15, of the amount of money received on account of shares. R.S.O. 1970, c. 89, s. 163.

Limit of
percentage
of subscrip-
tions for
charges

144.—(1) In subsection (2), “surplus to policyholders” means surplus of assets over liabilities excluding issued capital shown in the annual financial statement of the company at the end of the next preceding calendar year as filed with and approved by the Superintendent.

Interpre-
tation

(2) Where a company undertaking life insurance has insurance in force of less than \$25,000,000 and has a surplus to policyholders of more than \$500,000, the directors may pass a by-law authorizing an application to the Lieutenant Governor for the issue of supplementary letters patent decreasing its authorized, subscribed and paid-in capital by not more than 50 per cent.

Reduction
of capital
of life
insurance
companies

(3) The by-law and the supplementary letters patent shall declare the new par value of the shares and the liability of the shareholders on partially paid-in shares.

New par
value to be
declared

Application,
when to be
made

(4) The application shall not be made until the by-law has been confirmed by a vote of the shareholders present or represented by proxy at a general meeting duly called for considering it and holding not less than two-thirds of the votes cast at such meeting.

Surplus not
to be de-
creased by
dividends to
shareholders

(5) The supplementary letters patent shall contain a provision that any surplus created by reason of such decrease of capital will not be decreased by dividends subsequently declared to shareholders. R.S.O. 1970, c. 89, s. 164.

Ss. 165 (2-4),
167, 168
applicable
to company
undertaking
life insurance

145. A company undertaking life insurance may, by resolution passed at a special general meeting called for such purpose, provide that subsections 165 (2), (3) and (4) and sections 167 and 168 apply to such company. R.S.O. 1970, c. 89, s. 165.

Amalga-
mation
R.S.O. 1980,
c. 218

146. Subject to the approval of the agreement of amalgamation under the *Insurance Act*, section 113 of this Act applies to the amalgamation of two or more joint stock insurance companies. R.S.O. 1970, c. 89, s. 166.

Amalgama-
tion, etc., of
mutual
corporation
and joint
stock
corporation

147.—(1) Subject to the *Insurance Act*, a mutual corporation incorporated under the laws of Ontario transacting life insurance may amalgamate with or transfer its contracts to or reinsure such contracts with any licensed insurer transacting life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Confirma-
tion of
agreement

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the board of directors may enter into any such agreement on behalf of the mutual corporation through its president and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the agreement has been confirmed by a vote of the majority of the members present or duly represented by proxy at a general or special general meeting of the mutual corporation and unless the agreement has been approved by the Lieutenant Governor in Council under the *Insurance Act*.

Agreement
binding on
all members
of mutual
corporation

(3) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, or in any policy or certificate or other document evidencing a contract issued by a mutual corporation, or in the constitution or laws of or certificates issued by a fraternal society whose contracts have been assumed by the mutual corporation or for which the mutual corporation has become responsible, the terms of any such agreement so confirmed and approved are valid and binding as of the date stipulated in the agreement upon all the members of the mutual corporation and upon

their beneficiaries and legal representatives and upon all persons deriving legal rights from any such member or beneficiary so long as they do not involve any new or increased rates of contribution or premium, and the claims of all persons under any such contract of insurance shall be restricted to such benefits only as are continued in accordance with the terms of such agreement, and such contracts shall be deemed to be amended accordingly.

(4) Upon the coming into force of any such agreement, the reinsurer, in complying with the requirements of the *Insurance Act* in respect of the valuation of contracts so reinsured or transferred, is entitled to base its valuation upon such tables of mortality and upon such rates of interest as would have been authorized by law for such mutual corporation if no such agreement had been made. R.S.O. 1970, c. 89, s. 167.

Standards of
valuations

R.S.O. 1980,
c. 218

148.—(1) A mutual or cash-mutual corporation may be incorporated for the purpose of undertaking and transacting any class of insurance for which a mutual or cash-mutual insurance corporation may be licensed under the *Insurance Act*. R.S.O. 1970, c. 89, s. 168 (1); 1971, c. 25, s. 1 (1).

Incorporation of
mutual and
cash-mutual
insurance
corporations

(2) A mutual insurance corporation may be incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan upon agricultural property, weather insurance or live stock insurance. R.S.O. 1970, c. 89, s. 168 (2); 1971, c. 25, s. 1 (2).

Idem

(3) A mutual insurance corporation, all the members of which are mutual or cash-mutual corporations, may be incorporated for the purpose of reinsuring contracts of insurance and such a corporation may enter into contracts of reinsurance for the purpose of retroceding all or part of reinsurance contracts entered into by it. 1979, c. 80, s. 1.

Corporation
for
reinsurance

149.—(1) Ten residents in any county or district may call a meeting of the residents thereof to consider whether it is expedient to establish therein a mutual fire insurance corporation to undertake contracts of fire insurance on the premium note plan upon agricultural property. 1971, c. 25, s. 2 (1).

Incorporation
of mutual fire
insurance
corporation

(2) The meeting shall be called by advertisement, stating the time, place and object of the meeting, and the advertisement shall be published once in *The Ontario Gazette* and at least once a week for three consecutive weeks in a newspaper published in the county or district. R.S.O. 1970, c. 89, s. 169 (2); 1971, c. 25, s. 2 (2).

Advertisements calling
meeting

Subscription
book

(3) If thirty residents are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance corporation, they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property in Ontario may sign their names and enter the sum for which they respectively bind themselves to effect insurance in the corporation. R.S.O. 1970, c. 89, s. 169 (3); 1971, c. 25, s. 2 (3).

When
meeting may
be called

(4) When 100 or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the corporation amounting in the aggregate to \$250,000 or more, a meeting shall be called as hereinafter provided. R.S.O. 1970, c. 89, s. 169 (4).

How meeting
to be called

(5) When the subscription has been completed, any ten of the subscribers may call the first meeting of the proposed corporation at such time and place in the county or district as they determine by sending a printed notice by mail, addressed to each subscriber at his post office address, at least ten days before the day of the meeting, and by advertisement in a newspaper having general circulation in the county or district. 1971, c. 25, s. 2 (4).

Contents
of notice

(6) The notice and advertisement shall state the object of the meeting and the time and place at which it is to be held. R.S.O. 1970, c. 89, s. 169 (6).

Election of
directors

(7) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the word "mutual", shall be adopted, an acting secretary appointed, a board of directors elected as hereinafter provided and a central and generally accessible place in the county or district at which the head office of the company is to be located. 1979, c. 80, s. 2 (1).

Quorum of
meeting

(8) The presence of at least twenty-five of the subscribers is necessary to constitute a valid meeting.

First
meeting of
directors

(9) As soon as convenient after the meeting, the acting secretary shall call a meeting of the board of directors for the election from among themselves of a president and a vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer or a manager and for the transaction of such other business as may be brought before the meeting.

(10) With the application for incorporation, the applicants shall produce to the Minister, certified as correct under the hands of the chairman and secretary, Certain documents to be delivered

(a) a copy of the minutes of the meeting, including all resolutions respecting the objects of the proposed corporation, its name and the location of its head office;

(b) a copy of the subscription book;

(c) a list showing the names and addresses of the directors elected and of the officers appointed; and

(d) such further information as the Minister may require.

(11) There shall also, for verification, be produced to the Minister, if requested, the originals of such documents. Production of originals

(12) The Minister shall ascertain and determine whether the proceedings for the incorporation have been taken in accordance with this section and whether the subscriptions are *bona fide* and by persons possessing property to insure. Minister to ascertain correctness of proceedings
R.S.O. 1970, c. 89, s. 169 (8-12).

(13) A mutual insurance corporation incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan or under a contract to which the Fire Mutual Guarantee Fund is applicable in accordance with section 146 of the *Insurance Act*, has the power, and its letters patent shall be deemed to include the power, to undertake all classes of insurance for which a joint stock insurance company may be licensed under the *Insurance Act*. 1979, c. 80, s. 2 (3). Powers deemed in letters patent
R.S.O. 1980, c. 218

150.—(1) Ten owners of live stock in any county or district may call a meeting of the owners of live stock to consider whether it is expedient to establish a live stock insurance corporation upon the mutual plan. R.S.O. 1970, c. 89, s. 170 (1); 1971, c. 25, s. 3 (1). Incorporation of mutual live stock insurance corporation

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same with necessary modifications as in the case of the formation of a mutual fire insurance corporation, except that the determination that it is expedient to establish the corporation shall be by thirty Organization

residents of the county or district, being owners of live stock in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of live stock in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more. 1971, c. 25, s. 3 (2).

Powers

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual live stock insurance corporation incorporated under this section to undertaking contracts of insurance on the premium note plan against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the insured or by the invasion of an enemy or by insurrection. R.S.O. 1970, c. 89, s. 170 (3).

Incorporation of mutual weather insurance corporation

151.—(1) Ten owners of agricultural property in any county or district may call a meeting of the owners of agricultural property to consider whether it is expedient to establish therein a weather insurance corporation upon the mutual plan. R.S.O. 1970, c. 89, s. 171 (1); 1971, c. 25, s. 4 (1).

Organization

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same with necessary modifications as in the case of the formation of a mutual fire insurance corporation, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the county or district, being owners of agricultural property in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more. 1971, c. 25, s. 4 (2).

Powers

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual weather insurance corporation incorporated under this section to undertaking contracts of insurance on the premium note plan on any kind of agricultural property or property that is not mercantile or manufacturing against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance specifies. R.S.O. 1970, c. 89, s. 171 (3); 1971, c. 25, s. 4 (3).

Incorporation of cash-mutual insurance corporations

152.—(1) Ten residents of any county or district may call a meeting of other residents thereof to consider whether it

is expedient to establish a cash-mutual insurance corporation for the purpose of undertaking any class of insurance for which a cash-mutual corporation may be licensed under the *Insurance Act*.

R.S.O. 1980,
c. 218

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same with necessary modifications as in the case of a mutual fire insurance corporation undertaking contracts of fire insurance under the premium note plan, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the county or district, and that the meeting for the organization of the corporation shall not be held unless fifty residents have signed the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$250,000 or more. 1971, c. 25, s. 5, *part*.

Organization

153.—(1) A mutual insurance corporation incorporated for the purposes of undertaking contracts of insurance on the premium note plan that has a net surplus of assets over all liabilities of not less than \$500,000, may apply to the Lieutenant Governor in Council for the issue of supplementary letters patent converting it into a cash-mutual corporation in the manner provided in this Act.

When mutual
company
writing on
the premium
note plan
may become a
cash-mutual
corporation

(2) The application shall be authorized by a resolution of three-fourths in number of the directors of the corporation and confirmed by the members of the corporation by vote representing at least 90 per cent of the members present at a special general meeting duly called for that purpose, but the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each member at his latest address as shown on the books of the corporation.

Approval of
members

(3) Notice of intention to make the application and of the confirmation by the members of the corporation shall be published in at least four consecutive issues of *The Ontario Gazette* and in a newspaper having general circulation in the county or district in which the head office of the corporation is situate at least once a week for four consecutive weeks.

Notice of
application

(4) With the application for supplementary letters patent, submitted under this section, the applicants shall produce to the Minister certified as correct under the hands of the chairman and secretary,

Certain
documents
to be
delivered

- (a) a copy of the notice of the special meeting of the members of the corporation and the notices published in *The Ontario Gazette* and the newspaper;
- (b) a copy of the minutes of the special meeting of the members, including all resolutions respecting the objects of the proposed corporation, its name and the location of its head office;
- (c) a copy of the corporation's audited financial statement made up to a date not more than seven months prior to the date of the application;
- (d) a list of the proposed officers and directors of the cash-mutual corporation;
- (e) such further information as the Minister may require.

Report by
Super-
intendent

R.S.O. 1980,
c. 218

(5) The Superintendent shall report to the Minister whether the proceedings for supplementary letters patent are in accordance with the provisions of this section and the requirements of the *Insurance Act*. 1971, c. 25, s. 5, *part*.

When
cash-mutual
company
may become
a joint stock
company

154.—(1) A mutual or a cash-mutual corporation that has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may apply to the Lieutenant Governor for the issue of supplementary letters patent converting it into a joint stock insurance corporation in the manner provided in this Act.

Approval of
members

(2) The application shall be authorized by a resolution of three-fourths in number of the directors of the corporation and confirmed by the members of the corporation by vote representing at least 90 per cent of the members present at a special general meeting duly called for that purpose, but the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each member at his latest address as shown on the books of the corporation.

Notice of
application

(3) Notice of intention to make the application and of the confirmation by the members of the corporation shall be published in at least four consecutive issues of *The Ontario Gazette* and in a newspaper having general circulation in the county or district in which the head office of the corporation is situate at least once a week for four consecutive weeks.

(4) A person who is a member of the corporation on the day of the meeting is entitled to priority in subscribing to the capital stock of the corporation for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force.

Priority of members in subscribing stock

(5) With the application for supplementary letters patent, submitted under this section, the applicants shall produce to the Minister certified as correct under the hands of the chairman and secretary,

Certain documents to be delivered

- (a) a copy of the notice of the special meeting of the members of the corporation and the notices published in *The Ontario Gazette* and the newspaper;
- (b) a copy of the minutes of the special general meeting of members, including all resolutions respecting the objects of the proposed corporation, its name and the location of its head office;
- (c) a copy of the corporation's audited financial statement made up to a date not more than seven months prior to the date of the application;
- (d) a list of the proposed officers and directors of the cash-mutual corporation;
- (e) such further information as the Minister may require.

(6) The Superintendent shall report to the Minister whether the application for supplementary letters patent is in accordance with the provisions of this section and the requirements of the *Insurance Act*. 1971, c. 25, s. 5, *part*.

Report of Superintendent

R.S.O. 1980, c. 218

155. A corporation formed under section 153 or 154 is answerable for all liabilities of the corporation from which it has been formed and may sue and be sued under its new corporate name, and the assets and property of the old corporation are vested in the new corporation from the date of its formation. R.S.O. 1970, c. 89, s. 179; 1971, c. 25, s. 6.

Vesting of assets and preservation of liabilities

156. No mutual or cash-mutual insurance corporation that has ceased to do new business shall divide among its members any part of its assets, except income from invest-

When distribution of assets among members permitted

ments, until it has performed or cancelled its policy obligations and upon proof to the Superintendent that such policy obligations have been performed or cancelled. 1971, c. 25, s. 8.

Application
of ss. 158-173

157. Sections 158 to 173 apply only to mutual and cash-mutual insurance corporations. 1971, c. 25, s. 9.

Insured
deemed
member

158.—(1) A person insured under a policy issued by a corporation shall, from the date upon which the insurance becomes effective, be deemed a member of such corporation.

Member's
liability

(2) No member is liable in respect of any claim or demand against the corporation beyond the amount unpaid on his premium note.

Member
withdrawing

R.S.O. 1980,
c. 218

(3) A member may, with the consent of the directors, withdraw from the corporation on such terms as the directors lawfully prescribe, subject to the *Insurance Act*. R.S.O. 1970, c. 89, s. 187.

Annual
meeting

159.—(1) A meeting of the shareholders and members for the election of directors shall be held within the first two months of every year at such time and place as the by-laws of the corporation prescribe.

Annual
statement

(2) Before the election, the annual statement for the year ending on the previous 31st day of December shall be presented and read. R.S.O. 1970, c. 89, s. 188.

Failure
to elect
directors

160. If an election of directors is not made on the day on which it ought to have been made, the corporation shall not for that cause be dissolved, but the election may be held on a subsequent day at a meeting to be called by the directors or as otherwise provided by the by-laws of the corporation, and in such case the directors then in office continue to hold office until their successors are elected. R.S.O. 1970, c. 89, s. 189.

Notice of
annual or
special
meetings

161.—(1) Notice of every annual or special general meeting of the corporation shall be sent by mail to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least seven days before the day of the meeting.

Power of
directors

(2) The directors may call a general meeting of the corporation at any time.

(3) The directors shall, at least seven days before the day of the annual meeting, send to each member by mail the annual statement for the year ending on the previous 31st day of December, which shall be certified by the auditors and shall be in the form prescribed by the regulations made under section 82 of the *Insurance Act*. R.S.O. 1970, c. 89, s. 190.

Annual statement to be sent to members

R.S.O. 1980, c. 218

162.—(1) A member of a mutual or cash-mutual insurance corporation who is not in arrear for any assessment or cash payment due by him to the corporation is entitled at all meetings of the corporation to one vote if the amount of premium paid by him annually is in excess of \$25 and no member is entitled to more than one vote. 1971, c. 25, s. 10.

Voting of members of mutual or cash-mutual insurance corporations

(2) Where a policy on the premium note plan is made to two or more persons, one only is entitled to vote, and the right of voting belongs to the one first named on the register of policyholders if he is present or, if not present, to the one who stands second, and so on.

Where policy made to two or more persons

(3) Where property is insured by a trustee board, any member of the board or its secretary-treasurer duly appointed in writing pursuant to its resolution may vote on its behalf. R.S.O. 1970, c. 89, s. 191 (2, 3).

Where property insured by trustee board

163. No applicant for insurance is competent to vote or otherwise take part in the corporation's proceedings until his application has been accepted by the directors. R.S.O. 1970, c. 89, s. 192.

Right of mere applicants

164.—(1) No person is eligible to be or shall act as a director unless he is a member of the corporation, insured therein for the time he holds office and entitled to a vote. 1971, c. 25, s. 11.

Qualifications of directors

(2) Where the corporation has a share capital, not less than two-thirds of the directors shall also be holders of shares, each to an amount not less than \$1,000, upon which all calls have been paid.

Where corporation has a share capital

(3) The president or director of a member corporation that has the qualifications that would qualify an individual to be a director is eligible to be a director of the corporation.

Representation of corporations

(4) Where a partnership has the qualifications that would qualify an individual to be a director of the corporation,

Representation of partnerships

one member of the partnership is eligible to be a director of the corporation. R.S.O. 1970, c. 89, s. 193 (2-4).

Number of
directors

165.—(1) The board shall consist of six, nine, twelve or fifteen directors, to be determined by resolution passed at the meeting held under subsection 149 (5).

Increase or
decrease in
number

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the corporation called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual meeting is given to the secretary of the corporation at least one month before the holding of the meeting, but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen.

Notice of
proposed
change

(3) Where such a notice has been given to the secretary, that fact shall be stated in the notice of the annual general meeting.

Copy of
resolution
and list of
directors to
be filed

(4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. R.S.O. 1970, c. 89, s. 194.

Filing
by-laws for
remuneration
of
directors

166. At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it is lawful to pass by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. R.S.O. 1970, c. 89, s. 195.

Retirement
of directors
in rotation

167. One-third of the directors shall retire annually, in rotation, and, at the first meeting of the directors or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. R.S.O. 1970, c. 89, s. 196.

Annual
election
to fill
vacancies

168. At every annual general meeting thereafter, one-third of the total number of directors shall be elected for a period of three years to fill the places of the retiring directors, who are eligible for re-election. R.S.O. 1970, c. 89, s. 197.

169. The manager of the corporation, although he has not the qualifications required by section 164, may be a director of the corporation and may be paid an annual salary under a by-law passed as provided by section 166. R.S.O. 1970, c. 89, s. 198.

Manager
may be a
director and
be paid
salary

170. No agent or paid officer, or officer of the bankers of the corporation, or person in the employment of the corporation, other than the manager, is eligible to be elected as a director or shall interfere in the election of directors. R.S.O. 1970, c. 89, s. 199 (1).

Certain
persons not
eligible as
directors

171.—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in person, or in the case of a corporation or partnership by a director, officer or member authorized in writing to represent it.

Election of
directors

(2) The election shall be by ballot.

Ballot

(3) If two or more members have an equal number of votes so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors.

Case of a
tie at an
election

(4) The directors shall, at their first meeting after any such election, elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. R.S.O. 1970, c. 89, s. 200.

Election of
president
and vice-
president

172. If a vacancy occurs among the directors, during the term for which they have been elected, by death, resignation, ceasing to have the prescribed qualification, insolvency or by absence without previous leave of the directors from three successive regular meetings, which shall *ipso facto* create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled and, in the case of a board limited to a number of directors exceeding six, may be filled until the next annual general meeting by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. R.S.O. 1970, c. 89, s. 201.

Interim
vacancies

Quorum of
directors

173.—(1) A majority of the directors constitutes a quorum for the transaction of business, and, in the case of an equality of votes at any meeting, the question passes in the negative.

Recording
dissent

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. R.S.O. 1970, c. 89, s. 202.

Security of
accountants

174.—(1) Every officer or person appointed or elected to any office concerning the receipt or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and security so furnished and then subsisting shall be produced to the auditors at the annual audit. R.S.O. 1970, c. 89, s. 203 (1).

Minimum
security

(2) The security given by the treasurer or other officer having charge of the money of the corporation shall not be less than \$5,000 or such greater amount as may be required by the by-laws of the corporation or by the Superintendent. 1971, c. 25, s. 13.

Amalga-
mation
R.S.O. 1980,
c. 218

175. Subject to the approval of the agreement of amalgamation under the *Insurance Act*, section 113 applies with necessary modifications to the amalgamation of two or more mutual or cash-mutual insurance corporations. R.S.O. 1970, c. 89, s. 204.

Incorporation
of fraternal
societies

176.—(1) The lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than seventy-five, of eighteen or more years of age, five of whom apply therefor, constituting such persons and any others who have signed the membership book, and persons who thereafter become members in the fraternal society thereby created, a corporation for the purposes of undertaking any class of insurance for which a fraternal society may be licensed under the *Insurance Act*. R.S.O. 1970, c. 89, s. 206 (1); 1971, c. 98, s. 4, Sched., par. 9.

Notice

(2) The applicants for incorporation, immediately before the application, shall publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply and shall also, if so required, publish elsewhere notice of such intention.

Particulars
of
application

(3) The application for the incorporation of a fraternal society shall show,

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate;
- (c) the name in full, the place of residence and the calling of each of the applicants who are to be its first trustees or managing officers;
- (d) such other information as the Minister requires.

(4) The application shall be accompanied by the original membership book or list containing the signatures duly certified of at least seventy-five persons who thereby agree to become members of the fraternal society if and when incorporated, by a copy of the proposed by-laws of the fraternal society and by evidence that the approval of the Superintendent to the proposed by-laws and rules has been obtained. R.S.O. 1970, c. 89, s. 206 (2-4).

Other documents

177. Within thirty days after the issue of the letters patent and upon due notice to all members of the society, an organization meeting of the society shall be held at which the by-laws shall be adopted and the officers of the society elected. R.S.O. 1970, c. 89, s. 207.

Organization meeting

178.—(1) Where a fraternal society licensed under the *Insurance Act* has its head office elsewhere than in Ontario, the grand or other provincial body of the lodges or a majority of the lodges in Ontario may apply to the Lieutenant Governor for the issue of a charter and, from the time of the issue of the letters patent, the applicants become a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under the *Insurance Act*.

Incorporation of foreign fraternal society
R.S.O. 1980, c. 218

(2) Subsection 176 (1) applies to an incorporation under this section.

Application of s. 176 (1)

(3) Before the issue of the letters patent, evidence shall be produced to the Minister that the approval of the Superintendent to the application has been secured. R.S.O. 1970, c. 89, s. 208.

Approval of Superintendent

179. An auxiliary or local subordinate body or branch of a licensed fraternal society may be separately incorporated by like proceedings. R.S.O. 1970, c. 89, s. 209.

Incorporation of local branch

Amalgamation or reinsurance by fraternal society

R.S.O. 1980, c. 218

180.—(1) Subject to the *Insurance Act*, any fraternal society may amalgamate with any other fraternal society or transfer all or any portion of its contracts to or reinsure them with any insurer licensed for the transaction of life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Agreement for amalgamation, etc.

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the governing executive authority may enter into any such agreement on behalf of the society through its principal officer and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the principle of amalgamation, transfer or reinsurance has been approved and that the agreement has been confirmed by a vote of the majority of the members present or duly represented at a general or special meeting of the supreme legislative or governing body of the society duly called. R.S.O. 1970, c. 89, s. 210.

Confirmation of amalgamation

181. Subsection 113 (4) applies with necessary modifications to the amalgamation of two or more fraternal societies. R.S.O. 1970, c. 89, s. 211.

Incorporation of mutual benefit society

182.—(1) A mutual benefit society may be incorporated for the purpose of undertaking any class of insurance for which a mutual benefit society may be licensed under the *Insurance Act*, and the provisions of this Part relating to fraternal societies apply with necessary modifications to the incorporation of mutual benefit societies and to such societies when incorporated.

Name

(2) The proposed name of a mutual benefit society incorporated under this Part shall include the words “mutual benefit”. R.S.O. 1970, c. 89, s. 212.

Pension fund and employees' mutual benefit societies, application of ss. 184-195

183. Sections 184 to 195 apply to pension fund and employees' mutual benefit societies incorporated under this Part. R.S.O. 1970, c. 89, s. 213.

Interpretation

184. In this section and in sections 185 to 195,

- (a) “parent corporation” means a corporation any of whose officers establish a pension fund or employees' mutual benefit society under this Part;
- (b) “society” means a pension fund or employees' mutual benefit society incorporated under this Part;

- (c) "subsidiary corporation" means a corporation, wherever incorporated, at least 75 per cent of whose issued common shares are owned by a parent corporation. R.S.O. 1970, c. 89, s. 214.

185.—(1) The Lieutenant Governor may in his discretion, ^{Charter by letters patent} by letters patent, issue a charter to any number of persons, not fewer than five, of eighteen or more years of age, two of whom are officers of a corporation legally transacting business in Ontario who apply therefor, constituting such persons and the employees of such corporation and of its subsidiary corporations who join the society and those who replace them from time to time a pension fund or employees' mutual benefit society corporation. R.S.O. 1970, c. 89, s. 215 (1); 1971, c. 98, s. 4, Sched., par. 9.

(2) The application for the incorporation of a pension fund or employees' mutual benefit society shall show, ^{Contents of application}

- (a) its proposed name;
- (b) the name of its parent corporation;
- (c) the place in Ontario where its head office is to be situate;
- (d) the name in full and place of residence and calling of each of the applicants; and
- (e) the names, not fewer than five, of those who are to be its first directors.

(3) Notice of the application for incorporation of a society shall be published in at least four consecutive issues of *The Ontario Gazette* and the notice shall state, ^{Notice}

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate; and
- (c) the name of its secretary. R.S.O. 1970, c. 89, s. 215 (2, 3).

186. The first directors have power to call the first ^{First meeting} meeting of the society and at such meeting directors may be

elected and by-laws may be passed under this Act, and a copy of such by-laws shall be filed with the Minister within two weeks after the passing thereof, and copies of subsequent by-laws in amendment thereof, in addition thereto or diminution therefrom, shall also be filed with the Minister within two weeks after the passing thereof. R.S.O. 1970, c. 89, s. 216.

Directors

187.—(1) The affairs of the society shall be administered by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications and for such period as are determined by the by-laws, but at the first meeting of the society five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers may be appointed in such manner with such remuneration and under such provisions touching their powers and duties as are established by the by-laws.

**Management
of fund by
trust
company**

(2) The board of directors may by by-law entrust the whole or a part of the fund of the society to a trust company licensed under the law of Ontario and may delegate to such trust company all or any of its powers and discretions relating to the custody and management of the fund. R.S.O. 1970, c. 89, s. 217.

**Interpre-
tation**

188.—(1) In this section, “dependants” means the wives, husbands, and children under eighteen years of age, including adopted children, of officers or employees within the meaning of this section. R.S.O. 1970, c. 89, s. 218 (1); 1971, c. 98, s. 4, Sched., par. 9.

**Powers and
objects of
society**

(2) After its incorporation, every pension fund and employees’ mutual benefit society has the power, by means of voluntary contribution or otherwise as its by-laws provide, to form a fund or funds and may invest, hold and administer the same and may therefrom,

- (a) provide for the support and payment of pensions and other benefits to officers and employees of the parent corporation and its subsidiary corporations who have retired or who cease to be employed by the parent corporation or one of its subsidiary corporations;
- (b) provide, in such manner as the by-laws specify, for the payment of pensions, annuities, gratuities or other benefits to the widows and children or other surviving relatives or legal representatives of officers

and employees or retired officers and employees of the parent corporation and its subsidiary corporations who have died;

- (c) provide for the payment of benefits to officers and employees of the parent corporation or one of its subsidiary corporations by reason of illness, accident or disability;
- (d) provide for the payment of benefits by reason of illness, accident or disability to former officers and employees of the parent corporation and its subsidiary corporations who are retired;
- (e) provide for the payment of benefits to officers and employees or retired officers and employees of the parent corporation or one of its subsidiary corporations in respect of illness, accident or disability affecting dependants of such officers or employees; and
- (f) upon the death of such officers or employees, pay a funeral benefit in such manner as the by-laws specify. R.S.O. 1970, c. 89, s. 218 (2).

189.—(1) A pension fund and employees' mutual benefit society has all corporate powers necessary for its purposes and may pass by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of, all the rights, powers and duties of, Power to
pass by-laws

- (a) the society;
- (b) its individual members;
- (c) the officers and employees of the parent corporation and its subsidiary corporations;
- (d) the widows and children or other surviving relatives, or the personal representatives of such officers and employees; and
- (e) the parent corporation.

(2) Every such society may also make by-laws as aforesaid Additional
by-laws
for,

- (a) the formation and maintenance of the fund;
- (b) the management and distribution of the fund;
- (c) the enforcement of any penalty or forfeiture in the premises; and
- (d) the government and ordering of all business and affairs of the society.

Sanction of
parent
corporation

(3) No such by-law is effective unless it has been sanctioned by the board of directors of the parent corporation. R.S.O. 1970, c. 89, s. 219.

By-laws
defining
rights and
remedies of
beneficiaries,
etc.

190. All the powers, authority, rights, penalties and forfeitures whatever of the society or of its members, officers or employees, or of such widows and children or other surviving relatives or legal representatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws are defined and limited. R.S.O. 1970, c. 89, s. 220.

Revenue

191. All the revenue of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects of the fund and to no other purpose. R.S.O. 1970, c. 89, s. 221.

Contribution
by parent
corporation

192. The parent corporation may contribute annually or otherwise to the funds of the society by a vote of its directors or its shareholders. R.S.O. 1970, c. 89, s. 222.

Prohibition
against
member
assigning
interest

193. The interest of a member in the funds of the society is not transferable or assignable by way of pledge, hypothecation, sale, security or otherwise. R.S.O. 1970, c. 89, s. 223.

Special
audit

194.—(1) Where it is shown to the satisfaction of the Minister that the accounts of a society have been materially or wilfully falsified, or where there is filed in the office of the Minister a requisition for audit bearing the signatures, addresses and callings of at least 25 per cent of the members of the society and alleging in a sufficiently particular manner to the satisfaction of the Minister specific fraudulent or illegal acts, or the repudiation of obligations, or insolvency, the Minister may appoint one or more accountants

or actuaries who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Minister.

(2) Where an audit is requested, the persons requesting it shall, with their requisition, deposit with the Minister security for the costs of the audit in such sum as he fixes, and, where the facts alleged in the requisition appear to the Minister to have been partly or wholly disproved by the audit, he may pay the costs thereof partly or wholly out of the deposit. Security for costs

(3) The society, its officers and servants shall facilitate the making of such special audit so far as it is in their power and shall produce for inspection and examination by the person so appointed such books, securities and documents as he may require. Duty to facilitate special audit

(4) Subject to subsection (2), the expense of such special audit shall be borne by the society, and the auditor's account, when approved in writing by the Minister, shall be paid by the society forthwith. Expense of special audit R.S.O. 1970, c. 89, s. 224.

195. A society formed under this Act shall at all times when thereunto required by the Minister make a full return of its assets and liabilities and of its receipts and expenditures for such period and with such details and other information as the Minister may require. Return to Minister R.S.O. 1970, c. 89, s. 225.

196.—(1) If an insurer incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation, or if, after an insurer has undertaken contracts, such insurer discontinues business for one year, or if its licence remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the insurer's corporate powers *ipso facto* cease and determine, except for the sole purpose of winding up its affairs, and in any action or proceeding in which such non-user is alleged, proof of user is upon the insurer, and the Supreme Court, upon the petition of the Attorney General or of any person interested, may limit the time within which the insurer is to settle and close its accounts, and may, for that purpose or for the purpose of liquidation generally, appoint a receiver. When charter to be forfeited for non-user or discontinuance R.S.O. 1970, c. 89, s. 226 (1); 1972, c. 1, s. 9 (7).

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture. Rights of creditors R.S.O. 1970, c. 89, s. 226 (2).

Interpre-
tation

197. In sections 198 to 204, "shareholder" includes member and participating policy holder eligible to vote for a policyholders' director. R.S.O. 1970, c. 89, s. 227.

Information
laid before
annual
meetings of
life insurers

198.—(1) The directors of an insurer undertaking and transacting life insurance shall lay before each annual meeting of shareholders,

(a) a financial statement for the period commencing on the date of incorporation and ending not more than six months before such annual meeting or commencing immediately after the period covered by the previous financial statement and ending not more than six months before such annual meeting, as the case may be, made up of,

(i) a statement of revenue and expenditure for such period,

(ii) a statement of surplus for such period,

(iii) a balance sheet made up to the end of such period;

(b) the report of the auditor to the shareholders;

(c) such further information respecting the financial position of the insurer as the letters patent, supplementary letters patent or by-laws of the insurer require.

Contents of
financial
statement

(2) The statements referred to in the subclauses of clause (1) (a) shall comply with and be governed by sections 199 to 203, but it is not necessary to designate them the statement of revenue and expenditure, statement of surplus and balance sheet.

Incorporation
of
statements

(3) The statement of surplus referred to in subclause (1) (a) (ii) and the information required by subsections 200 (2) and (3) may be incorporated in and form part of the statement of revenue and expenditure referred to in subclause (1) (a) (i).

Auditor's
report to
be read

(4) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. R.S.O. 1970, c. 89, s. 228.

Statement
of revenue
and
expenditure

199.—(1) The statement of revenue and expenditure to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the insurer

for the period covered by the statement and so as to distinguish severally at least,

- (a) premium income;
- (b) income from invested assets;
- (c) profit or loss from sale of invested assets;
- (d) amounts by which values of invested assets are increased or decreased;
- (e) payments to policyholders and beneficiaries, other than the disbursement of moneys previously left on deposit;
- (f) increase or decrease in actuarial liability under insurance and annuity contracts;
- (g) total remuneration of directors as such from the insurer, including all salaries, bonuses, fees, contributions to pension funds and other emoluments;
- (h) premium taxes;
- (i) head office, agency, investment and other operating expenses;
- (j) the amount transferred to or from general surplus.

(2) Notwithstanding subsection (1), items of the nature^{Notes} described in clauses (1) (d) and (g) may be shown by way of note to the statement of revenue and expenditure. R.S.O. 1970, c. 89, s. 229.

200.—(1) The statement of surplus shall be drawn up so^{Statement of surplus} as to present fairly the transactions reflected in it and shall show separately a statement of general surplus and a statement of shareholders' surplus, howsoever designated.

(2) The statement of general surplus shall be drawn up so as^{General surplus} to distinguish at least the following items:

1. The balance of each amount making up the total of general surplus as shown in the balance sheet at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:

- i. The amount shown on the statement of revenue and expenditure as transferred to or from general surplus.
 - ii. The amount of surplus arising from the issue of shares or the reorganization of the insurer's issued capital, including *inter alia*,
 - (a) the amount of premiums received on the issue of shares at a premium;
 - (b) the amount of surplus realized on the purchase for cancellation of shares.
 - iii. Donations of cash or other property by shareholders.
3. The balance of each amount making up such general surplus as shown in the balance sheet at the end of the financial period.

Share-
holders'
surplus

(3) The statement of shareholders' surplus shall be drawn so as to distinguish at least the following items:

- 1. The balance of such surplus as shown in the balance sheet at the end of the preceding financial period.
 - 2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:
 - i. The amount transferred to or from general surplus.
 - ii. Provision for taxes on income.
 - iii. The amount of dividends declared on each class of shares.
 - 3. The balance of such surplus as shown in the balance sheet at the end of the financial period.
- R.S.O. 1970, c. 89, s. 230.

Balance
sheet

201.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the insurer as at the date to which it is made up and so as to distinguish severally at least the following:

1. The invested assets of the insurer as described in Part XVII of the *Insurance Act*, severally designated as follows: R.S.O. 1980,
c. 218

- i. Cash.
- ii. Preference and common shares.
- iii. Bonds and debentures.
- iv. Mortgages.
- v. Real estate held for sale.
- vi. Real estate held for the production of income.
- vii. Head office buildings.
- viii. Agreements for sale.
- ix. Loans on policies.
- x. Other invested assets stating their nature.

2. Other assets of the insurer distinguishing severally at least the following:

- i. Net outstanding premiums due and deferred.
- ii. Interest and rents due and accrued.
- iii. Debts owing to the insurer from its shareholders except debts of reasonable amount arising in the ordinary course of the insurer's business that are not overdue having regard to the insurer's ordinary terms of credit.
- iv. The aggregate amount of any outstanding loans under clauses 24 (2) (c), (d) and (e).

3. The actuarial liability under insurance and annuity contracts.

4. Bank loans and overdrafts.

5. Provision for unpaid and unreported claims.

6. All other liabilities to policyholders.

7. Debts owing by the insurer on loans from its directors, officers or shareholders.
8. Commissions and other debts owing by the insurer segregating those that arose otherwise than in the ordinary course of business.
9. Deferred income.
10. Liability for taxes.
11. Dividends on capital stock declared but not paid.
12. The authorized capital, giving the number of each class of shares and a brief description of each such class and indicating therein any class of shares which is redeemable and the redemption price thereof.
13. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
 - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and
 - (b) where any shares have not been fully paid,
 - (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
 - (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.
14. Reserves, as described in clauses 204 (1) (a), (b) and (c), showing the amounts added thereto and the amounts deducted therefrom during the financial period.
15. The amounts making up the surplus of the insurer severally designated as follows:

- i. General surplus.
- ii. Shareholders' surplus.
- iii. Other surplus balances indicating their nature.

(2) Notwithstanding subsection (1), particulars of the items ^{Notes} described in paragraphs 12 and 13 of subsection (1) may be shown by way of note to the balance sheet.

(3) The basis of valuation of the invested assets of the ^{Idem} insurer shall be shown by way of note to the balance sheet. R.S.O. 1970, c. 89, s. 231.

202.—(1) There shall be stated by way of note to the ^{Notes to financial statement} financial statement particulars of any change in accounting or actuarial principle or practice or in the method of applying any accounting or actuarial principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the results of operations for the period.

(2) Where applicable, the following matters shall be referred ^{Idem} to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the insurer.
3. Contractual obligations that will require abnormal expenditures in relation to the insurer's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
5. Any liability secured otherwise than by operation of law on any asset of the insurer, stating the liability so secured, but it is not necessary to specify the asset on which the liability is secured.
6. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.

7. Where an insurer has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
8. Any restriction by the letters patent, supplementary letters patent or by-laws of the insurer or by contract on the payment of dividends that is significant in the light of the insurer's financial position.

Idem

(3) Every note to a financial statement is an integral part of it. R.S.O. 1970, c. 89, s. 232.

Insignificant
circum-
stances

203. Notwithstanding sections 199 to 202, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. R.S.O. 1970, c. 89, s. 233.

Reserves

204.—(1) In a financial statement, the term “reserve” shall be used to describe only,

- (a) amounts appropriated from surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the insurer for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from surplus in accordance with the terms of a contract and which can be restored to the surplus when the conditions of the contract are fulfilled.

Idem

(2) Notwithstanding subsection (1), the term “reserve” may be used to describe the actuarial liability under insurance and annuity contracts. R.S.O. 1970, c. 89, s. 234.

Auditor's
report,
joint stock
insurance
companies
and cash
mutuals

205. The auditor of a joint stock insurance company or a cash mutual insurance corporation shall in the report required to be made by subsection 96 (2) also make such statements as he considers necessary,

- (a) if, in the case of corporations transacting other than life insurance, the provision for unearned premiums is not calculated as required by the *Insurance Act*;

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- (b) if the provision for unpaid claims, in his opinion, is not adequate;

- (c) if the financial statement includes as assets items prohibited by the *Insurance Act* from being shown in the annual statements required to be filed thereunder; or

- (d) if any of the transactions of the corporation that have come to his notice have not been within its powers. R.S.O. 1970, c. 89, s. 235.

206. Every insurer shall deliver to the Superintendent within one month after passing thereof, a certified copy of its by-laws and of every repeal or addition to or amendment or consolidation thereof. R.S.O. 1970, c. 89, s. 236.

Delivery of
by-laws to
Superin-
tendent

207. A copy of every balance sheet or other statement published or circulated by an insurer, purporting to show its financial condition, shall be mailed or delivered to the Superintendent, concurrently with its issue to its shareholders or policyholders, or to the general public. R.S.O. 1970, c. 89, s. 237.

Balance
sheets and
statements

208. A person who fails to comply with section 205, 206 or 207 shall be deemed to be guilty of an offence under the *Insurance Act*. R.S.O. 1970, c. 89, s. 238.

Offence

209. Subject to section 210, no person is eligible to become or shall be elected a director of a joint stock insurance company unless he is eighteen or more years of age and holds in his own name and for his own use and absolutely in his own right shares of the capital stock of the company upon which at least \$500 has been paid into the capital account of the corporation and has paid in cash all calls and instalments due thereon and all liabilities incurred by him to the company. R.S.O. 1970, c. 89, s. 239; 1971, c. 98, s. 4, Sched., par. 9.

Directors of
joint stock
insurance
company,
qualifi-
cations

210.—(1) A joint stock life insurance company may, by by-law, provide that the affairs of the company shall be managed by a board of directors of whom a specified number, herein called shareholders' directors, shall be elected by the shareholders of the company, and a specified

Share-
holders'
directors;
policy-
holders'
directors

number, herein called policyholders' directors, shall be elected by those persons, herein called participating policyholders, whose lives are insured under a participating policy or participating policies of the company for at least \$2,000 upon which no premiums are due, whether or not any such person is a shareholder of the company.

Number of
directors;
vacancies

(2) A by-law passed under subsection (1) shall provide for the election of not fewer than nine and not more than twenty-one directors, of whom not fewer than one-third shall be policyholders' directors, and any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors.

Participat-
in policy-
holders'
right to vote

(3) Participating policyholders are entitled to attend and vote in person and not by proxy at all general meetings of the company, but as such are not entitled to vote for the election of shareholders' directors, but this section does not confer rights or impose liabilities on such participating policyholders in a liquidation of the company.

Policy-
holders'
director,
qualifi-
cations

(4) A holder of a participating policy or participating policies of the company for at least \$4,000 exclusive of bonus additions, upon which no premiums are due, who is not a shareholder and who has paid premiums on such policy or policies for at least three full years is eligible for election as a policyholders' director.

Annual
meeting

(5) Such a life insurance company shall have a fixed time in each year for its annual meeting and such time shall be printed in prominent type on each premium notice or each premium receipt issued by the company, and, in addition to all other notices required to be given by this Act, it shall give fifteen days notice of such meeting in two or more daily newspapers published at or as near as may be to the place where the company has its head office. R.S.O. 1970, c. 89, s. 240.

Conversion
of joint
stock life
companies
into mutual
companies

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211. Notwithstanding anything in the letters patent incorporating the company or in its by-laws or in this Act, a joint stock life insurance company may, with the permission of the minister charged with the administration of the *Insurance Act*, establish and implement a plan for the conversion of the company into a mutual company by the purchase of shares of the capital stock of the company in accordance with the Schedule to this Act. R.S.O. 1970, c. 89, s. 241.

Interpre-
tation

212. In sections 213 to 224,

- (a) "deposit" means the deposits required under section 46 of the *Insurance Act*;

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- (b) "insured person" means a person who enters into a subsisting contract of insurance with an insurer and includes,

(i) every person insured by a contract whether named or not,

(ii) every person to whom or for whose benefit all or part of the proceeds of a contract of insurance are payable, and

(iii) every person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 226 of the *Insurance Act*;

- (c) "loss" includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;

- (d) "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of the *Insurance Act*;

- (e) "Ontario contract" means a subsisting contract of insurance that,

(i) has for its subject,

a. property that at the time of the making of the contract is in Ontario or is in transit to or from Ontario, or

b. the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in Ontario or of an incorporated company that has its head office in Ontario, or

(ii) makes provision for payment thereunder primarily to a resident of Ontario or to an incorporated company that has its head office in Ontario;

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(f) "reciprocal deposit" means a deposit of an insurer held under section 74 or 75 of the *Insurance Act*;

(g) "reciprocating province" means a province that has been declared to be a reciprocating province under paragraph 1 of subsection 74 (1) or subsection 75 (1) of the *Insurance Act*, with respect to the deposit of a particular insurer. R.S.O. 1970, c. 89, s. 242.

Application
of Part VI

213.—(1) The provisions of Part VI relating to the winding up of corporations apply to insurers incorporated under or subject to this Act except where inconsistent with this Part.

Interpre-
tation

(2) Where the company, corporation or society is not constituted exclusively or chiefly for insurance purposes and the insurance branch and fund are completely severable from every other branch and fund of the company, corporation or society, the word "insurer" for the purposes of sections 214 to 227 means only the insurance branch of the company, corporation or society. R.S.O. 1970, c. 89, s. 243.

Winding up
by order of
court on
application
of Superin-
tendent

214.—(1) An insurer incorporated in Ontario may also be wound up by order of the Supreme Court on the application of the Superintendent, if the court is satisfied that,

- (a) the insurer has failed to exercise its corporate powers during any continuous period of four years; or
- (b) the insurer has not commenced business or gone into actual operation within four years after it was incorporated; or
- (c) the insurer has discontinued business for one year after it has undertaken insurance contracts within the meaning of the *Insurance Act*; or
- (d) the insurer's licence has been suspended for one year or more; or
- (e) the insurer has carried on business or entered into a contract or used its funds in a manner or for a purpose prohibited or not authorized by the *Insurance Act* or by its Act of incorporation or by any special Act applicable thereto; or
- (f) other sufficient cause has been shown.

(2) No such application shall be made by the Superintendent without the approval of the Lieutenant Governor in Council. Approval of Lieutenant Governor in Council

(3) Upon the making of an order under this section, the provisions of Part VI relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply. Application of Part VI R.S.O. 1970, c. 89, s. 244.

215.—(1) In the case of an insurer incorporated in Ontario, Provisional liquidator appointment

(a) if its licence expires and,

(i) the insurer fails to renew within the period limited by the *Insurance Act*, or R.S.O. 1980, c. 218

(ii) a renewal is refused; or

(b) if its licence is cancelled,

the Minister may appoint a provisional liquidator who shall take charge of the affairs of the company and may direct that it be wound up forthwith under this Act.

(2) Until a permanent liquidator is appointed, the provisional liquidator shall exercise all the powers of the insurer and none of the officers or servants of the insurer shall make any contract for, incur any liability on behalf of, or expend any moneys of, the insurer without the approval of the provisional liquidator. Powers

(3) The provisional liquidator shall petition the Supreme Court for a winding-up order, and, if the court is of the opinion that it is just and equitable so to do, it may make an order winding up the company and thereupon the provisions of this Act relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply. Petition by provisional liquidator for winding-up order

(4) The provisional liquidator or the liquidator, notwithstanding this Act, but, subject to the approval of the Supreme Court, may sell the business and undertaking of the company as a going concern. Sale of business R.S.O. 1970, c. 89, s. 245.

216.—(1) The remuneration to be paid to a provisional liquidator appointed under subsection 215 (1) shall be fixed by the Minister. Remuneration of provisional liquidator

(2) The remuneration and all expenses and outlay in connection with the appointment of the provisional liquidator, together with all expenses and outlay of the pro- Payment of costs of provisional liquidator

visional liquidator while he acts in that capacity, shall be borne and paid by the insurer and form a first lien or charge upon the assets of the insurer, other than the deposit, unless otherwise directed under subsection (3).

Payment of
cost of
provisional
liquidator
out of
deposit

(3) The Minister in his discretion may direct that the remuneration, expenses and outlay shall be paid out of the proceeds of the deposit made by the insurer, and in that case the amount directed to be paid has the same priority as the expenses of the receiver administering the deposit as fixed by clause 63 (a) of the *Insurance Act*. R.S.O. 1970, c. 89, s. 246.

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Notice of
intention
to cease
writing
insurance or
to consider
voluntary
liquidation

217.—(1) When an insurer incorporated under or subject to the law of Ontario proposes to cease writing insurance or to call a general meeting to consider a resolution for its voluntary liquidation under this Act, it shall give at least one month's notice in writing thereof to the superintendent of insurance of each province in which the insurer is licensed.

Notice to
Superin-
tendent of
voluntary
winding up

(2) When an insurer has passed a resolution for voluntary winding up, the insurer shall notify the Superintendent thereof and of the date on which contracts of insurance will cease to be entered into by the insurer and of the name and address of its liquidator.

Publication
of notice

(3) The notice under subsection (2) shall also be published by the insurer in two consecutive issues of *The Ontario Gazette* and the official gazette of each other province in which the insurer is licensed and in such newspapers and other publications as the Superintendent may require. R.S.O. 1970, c. 89, s. 247.

Reinsurance

218.—(1) The provisional liquidator or the liquidator, before any order granting administration of the deposit and before the fixing of a termination date pursuant to section 220, may arrange for the reinsurance of the subsisting contracts of insurance of the insurer with some other insurer licensed in Ontario.

Funds
available for
reinsurance

(2) For the purpose of securing the reinsurance, the following funds shall be available:

1. The entire assets of the insurer in Ontario other than the deposit except the amount reasonably estimated by the provisional liquidator or the liquidator as being required to pay,

(a) the costs of the liquidation or winding up;

(b) all claims for losses covered by the insurer's contracts of insurance of which notice has been received by the insurer or provisional liquidator or liquidator before the date on which the reinsurance is effected;

(c) the claims of the preferred creditors who are the persons paid in priority to other creditors under the winding-up provisions of this Act,

all of which shall be a first charge on the assets of the insurer, other than the deposit.

2. All or such portion, if any, of the deposit as is agreed upon pursuant to subsection (3).

(3) If it appears necessary or desirable to secure reinsurance for the protection of insured persons entitled to share in the proceeds of the deposit, the Minister, on the recommendation of the Superintendent, or, in the case of a reciprocal deposit, the superintendents of insurance of the reciprocating provinces, may enter into an agreement with the provisional liquidator or the liquidator, whereby, pursuant to section 52 or 76 of the *Insurance Act*, all or any part of the securities in the deposit may be used for the purpose of securing the reinsurance.

Agreement
for use of
deposit for
reinsurance

(4) The creditors of the insurer, other than the insured persons and the said preferred creditors, are entitled to receive a payment on their claims only if provision has been made for the payments mentioned in subsection (2) and for the reinsurance.

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(5) If, after providing for the payments mentioned in subsection (2), the balance of the assets of the insurer, together with all or such portion, if any, of the deposit as is agreed upon under subsection (3), is insufficient to secure the reinsurance of the contracts of the insured persons in full, the reinsurance may be effected for such portion of the full amount of the contracts as is possible.

Reinsurance
of part of
contracts

(6) No contract of reinsurance shall be entered into under this section until it is approved by the Supreme Court.

Approval

R.S.O. 1970, c. 89, s. 248.

219.—(1) In the winding up of an insurer that has made a deposit pursuant to the *Insurance Act*, if the person appointed as receiver to administer the deposit pursuant to section 55 of the *Insurance Act* is not the person appointed

Transfer of
deposit from
receiver to
provisional
liquidator or
liquidator

R.S.O. 1980,
c. 218
R.S.C. 1970,
c. W-10

as the provisional liquidator or the liquidator under the *Insurance Act* or this Act or appointed as the Liquidator under the *Winding-up Act* (Canada), as the case may be, the Supreme Court at any time in its discretion may order that the deposit and the administration thereof be transferred from the receiver to the provisional liquidator or the liquidator.

Adminis-
tration of
deposit

(2) Upon the making of an order under subsection (1), the provisional liquidator or the liquidator shall administer the deposit for the benefit of the persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act.

Costs of
adminis-
tration of
deposit

(3) The amount payable to the provisional liquidator or the liquidator for administering the deposit and all costs and expenses incurred by him in administering the deposit shall be paid out of the deposit in accordance with the priorities fixed by clause 63 (a) of the *Insurance Act*, but the amount payable to the provisional liquidator or the liquidator and all costs and expenses incurred by him in the winding up of the insurer shall not be paid out of the deposit but shall be paid out of and are a first charge on the assets of the insurer except as provided in subsection 216 (3). R.S.O. 1970, c. 89, s. 249.

Termination
date, where
reinsurance
not
arranged

220.—(1) If the provisional liquidator or the liquidator fails to secure reinsurance, or if in his opinion it is impracticable or inexpedient to arrange for reinsurance, he,

(a) with the approval of the Supreme Court and subject to such terms as are prescribed by it; and

(b) for the purpose of securing the payment of existing claims and avoiding further losses,

may publish a notice fixing a termination date for the subsisting contracts of insurance of such insurer, and on and after that date coverage and protection under the Ontario contracts cease and the insurer is not liable under any such contract for a loss that occurs after that date.

Termination
of Ontario
contracts,
where
termination
date fixed
in another
province

(2) Where a provisional liquidator or a liquidator has been appointed in another province to wind up an insurer incorporated in that province, and if such provisional liquidator or liquidator fixed a termination date for the contracts of insurance of the insurer, on and after that date coverage and protection under the Ontario contracts cease and determine and the insurer is not liable under any such contract for a loss that occurs after that date.

(3) Where a receiver administering a deposit has fixed a termination date under section 58 of the *Insurance Act*, the termination date fixed under this section applies only to those contracts of insurance not already terminated on the date fixed by the receiver. R.S.O. 1970, c. 89, s. 250.

Where
termination
date fixed
by receiver
R.S.O. 1980,
c. 218

221. The provisional liquidator or the liquidator shall cause the notice,

Publication
of notice of
termination
date

(a) to be published in *The Ontario Gazette* and in the official gazette of each other province in which the insurer is licensed and in such newspapers as the Supreme Court directs in order to give reasonable notice of the termination date so fixed; and

(b) to be mailed to each policyholder at his address as shown on the books and records of the company. R.S.O. 1970, c. 89, s. 251.

222.—(1) The liquidator shall pay or set aside from the assets of the insurer sums in his opinion sufficient to pay,

Payment of
claims for
losses and
preferred
claims, etc.

(a) the costs of the liquidation or winding up;

(b) all claims for losses covered by the insurer's contracts of insurance that occurred before the termination date fixed under section 58 of the *Insurance Act* or section 220 of this Act and that have not been paid or provided for in the administration of the deposit and of which notice has been received by the insurer or the liquidator;

(c) the full amount of the legal reserve in respect of each unmaturing life insurance contract; and

(d) the claims of preferred creditors who are the persons paid in priority to other creditors under the winding-up provisions of this Act.

(2) Except in the case of life insurance, the assets remaining after payment or making provision for payment of the amounts mentioned in subsection (1) shall be used to pay the claims of the insured persons for refunds of unearned premiums on a *pro rata* basis in proportion to the periods of their contracts respectively unexpired on the termination dates to the extent that those claims have not been paid or provided for in the administration of the deposit.

Refund of
unearned
premiums

Calculation
of unearned
premium
claims

(3) The claims of the insured persons for refunds of unearned premiums shall be calculated,

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(a) as at the termination date fixed under section 58 of the *Insurance Act* or section 220 of this Act; or

(b) as at the date the insured person cancelled the contract,

whichever date is the earlier.

Effect of
refund

(4) The refund of all or a portion of the premium does not destroy or defeat any other remedy the insured person may have against the insurer in respect thereof or for any other cause.

Effect of
section

(5) Nothing in this section prejudices or affects the priority of any mortgage, lien or charge upon the property of the insurer. R.S.O. 1970, c. 89, s. 252.

Payment of
provincial
fees and
taxes, etc.

223. The fees, taxes and costs payable by the insurer to each province shall be paid out of the assets of the insurer remaining after the reinsurance of the subsisting contracts of insurance of the insurer or after the payment of the claims of policyholders for refund of unearned premiums, as the case may be, and the balance shall be distributed among the creditors of the insurer other than the insured persons, preferred creditors and the several provinces. R.S.O. 1970, c. 89, s. 253.

Filing of
statements
by liquidator

224.—(1) Unless otherwise ordered by the Supreme Court, within seven days after the close of each period of three months and until the affairs of the insurer are wound up and the accounts are finally closed, the liquidator shall file with the court or other authority appointing him and also with the Superintendent detailed schedules, in such form as is required, showing,

(a) receipts and expenditures; and

(b) assets and liabilities.

Production
of books,
etc., by
liquidator

(2) The liquidator, whenever he is required so to do by the authority appointing him or by the Minister, shall exhibit the office books and vouchers and furnish such other information respecting the affairs of the insurer as is required.

(3) Every liquidator refusing or neglecting to furnish such information is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$200 and in addition is liable to be dismissed or removed. R.S.O. 1970, c. 89, s. 254. Offence

225.—(1) Where a fraternal society transacts endowment or expectancy insurance and has an endowment fund separate and distinct from its life insurance fund, the society may, by resolution duly passed at a general meeting, after at least one month's notice of such intended resolution, determine that the endowment or expectancy shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata* among the members then in good standing who are contributing to such fund according to the total contribution of such member. Distribution of endowment and expectancy funds

(2) After the resolution has been assented to by the Superintendent and filed with the Minister, the executive officers may proceed to ascertain the persons intended to rank upon the fund and may distribute the fund among those so entitled, and such distribution discharges the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society. Procedure

(3) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance contracts, the general meeting, instead of determining to distribute the endowment or expectancy fund, may determine to convert it into or merge it in a life insurance fund, and after the resolution has been assented to and filed as provided in subsection (2), the endowment or expectancy fund becomes a life insurance fund. R.S.O. 1970, c. 89, s. 255. Merger of funds

226. Notwithstanding anything in this Act or in the *Insurance Act*, where an insurer is being wound up voluntarily, the Superintendent may renew or extend the licence of the insurer for the purposes of its winding up. R.S.O. 1970, c. 89, s. 256. Extension of licence
R.S.O. 1980, c. 218

227. The books, accounts and documents of an insurer and the entries in the books of its officers or liquidators are *prima facie* evidence of the matters to which they relate as between an alleged debtor or contributory and the insurer. R.S.O. 1970, c. 89, s. 257. Books, etc., as evidence

PART VI

WINDING UP

Interpre-
tation

228. In this Part, “contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Part. R.S.O. 1970, c. 89, s. 258.

Application

229. Subject to section 2, this Part applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends;
- (c) to every corporation incorporated by or under a general or special Act of this Legislature;
- (d) to every insurer within the meaning of Part V that is incorporated under or subject to this Act except where inconsistent with Part V,

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c. 249

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1970, c. 89, s. 259.

Voluntary
winding up

230.—(1) Where the shareholders or members of a corporation by a majority of the votes cast at a general meeting called for that purpose pass a resolution requiring the corporation to be wound up, the corporation may be wound up voluntarily.

Appointment
of liquidator

(2) At such meeting, the shareholders or members shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up. R.S.O. 1970, c. 89, s. 260.

231.—(1) Notice of a resolution requiring the voluntary winding up of a corporation shall be filed with the Minister and be published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been passed. Publication of notice of winding up

(2) A corporation that fails to comply with subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$200 and every director or officer who authorizes, permits or acquiesces in such failure is guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 261. Offence

232. A corporation being wound up voluntarily may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1970, c. 89, s. 262. Inspectors

233. If in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders or members in general meeting may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidator, if any, or by any contributory, and shall be deemed to have been duly held if called in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. R.S.O. 1970, c. 89, s. 263. Vacancy in office of liquidator

234. The shareholders or members of the corporation may, by a majority of the votes cast at a general meeting called for that purpose, remove a liquidator appointed under section 230 or 232, and in such case shall appoint another liquidator in his stead. R.S.O. 1970, c. 89, s. 264. Removal of liquidator

235. A voluntary winding up commences at the time of the passing of the resolution requiring the winding up. R.S.O. 1970, c. 89, s. 265. Commencement of winding up

236. Where a corporation is being wound up voluntarily, it shall, from the date of the commencement of its winding up, cease to carry on its undertaking, except in so far as Corporation to cease business

may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its instrument of incorporation or by-laws, continue until its affairs are wound up. R.S.O. 1970, c. 89, s. 266.

No proceedings against corporation after voluntary winding up except by leave

237. After the commencement of a voluntary winding up,

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court may impose. R.S.O. 1970, c. 89, s. 267.

Settlement of list of contributories

238.—(1) Upon a voluntary winding up, the liquidator shall settle the list of contributories, and any list so settled is *prima facie* evidence of the liability of the persons named therein to be contributories.

Payment from contributories

(2) Upon a voluntary winding up, the liquidator may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he considers necessary to satisfy the liabilities of the corporation and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and the liquidator may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1970, c. 89, s. 268.

Meetings of corporation during winding up

239.—(1) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the shareholders or members of the corporation for the purpose of obtaining its sanction by resolution, or for any other purpose he thinks fit.

Where winding up continues more than one year

(2) In the event of a voluntary winding up continuing for more than one year, the liquidator shall call a general meeting of the shareholders or members of the corporation

at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the preceding year. R.S.O. 1970, c. 89, s. 269.

240. The liquidator, with the sanction of a resolution of the shareholders or members of the corporation passed in general meeting or of the inspectors, may make such compromise or other arrangement as the liquidator considers expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1970, c. 89, s. 270.

Arrangements with creditors may be authorized

241. The liquidator may, with the like sanction, compromise all calls and liabilities to call, debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed upon, and the liquidator may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1970, c. 89, s. 271.

Power to compromise with debtors and contributories

242.—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidator of the first-mentioned corporation, with the sanction of a resolution of the shareholders or members passed in general meeting of the corporation by which he was appointed conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, cash or shares or other like interest in the purchasing corporation for the purpose of distribution among the shareholders or members of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

Power to accept shares, etc., as consideration for sale of property to another company

Confirmation of sale or arrangement

(2) A sale made or arrangement entered into by the liquidator under this section is binding on the shareholders or members of the corporation that is being wound up voluntarily if,

- (a) in the case of a company, the shareholders or classes of shareholders, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the shares or of each class of shares represented at the meeting; or
- (b) in the case of a corporation without share capital, the members or classes of members, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the members or of each class of members represented at the meeting,

approve the sale or arrangement and if the sale or arrangement is approved by an order made by the court on the application of the corporation.

Where resolution not invalid

(3) No resolution shall be deemed invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1970, c. 89, s. 272.

Winding up by court

243. A corporation may be wound up by order of the court,

- (a) where the shareholders or members by a majority of the votes cast at a general meeting called for that purpose pass a resolution authorizing an application to be made to the court to wind up the corporation;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;
- (c) where it is proved to the satisfaction of the court that the corporation, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or
- (d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up. R.S.O. 1970, c. 89, s. 273.

244.—(1) The winding-up order may be made upon the application of the corporation or of a shareholder or of a member or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$200 or more. ^{Who may apply}

(2) Except where the application is made by the corporation, four days notice of the application shall be given to the corporation before the making of the application. ^{Notice}
R.S.O. 1970, c. 89, s. 274.

245. The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up and may also delegate any powers of the court conferred by this Act to any officer of the court. ^{Power of court}
R.S.O. 1970, c. 89, s. 275.

246.—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property. ^{Appointment of liquidator}

(2) The court may at any time fix the remuneration of the liquidator. ^{Remuneration}

(3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy. ^{Vacancy}

(4) The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. ^{Removal of liquidator}
R.S.O. 1970, c. 89, s. 276.

247. The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court at Toronto. ^{Costs and expenses}
R.S.O. 1970, c. 89, s. 277.

248. Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of service of notice of the application, and, where the application is made by the corporation, at the time the application is made. ^{Commencement of winding up}
R.S.O. 1970, c. 89, s. 278.

249. Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences ^{Proceedings in winding up after order}

sequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator prior to the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1970, c. 89, s. 279.

Meetings of members of company may be ordered

250.—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders or members of the corporation to be called, held and conducted in such manner as the court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court.

Order for delivery by contributories and others of property, etc.

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, books, papers, estate or effects that are in his hands and to which the corporation is *prima facie* entitled.

Inspection of books

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the books and papers of the corporation by its creditors and contributories, and any books and papers in the possession of the corporation may be inspected in conformity with such order. R.S.O. 1970, c. 89, s. 280.

No proceedings against corporation after court winding up except by leave

251. After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court may impose. R.S.O. 1970, c. 89, s. 281.

Application of ss. 253-265, 268

252. Sections 253 to 265 and 268 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1970, c. 89, s. 282.

253.—(1) If from any cause there is no liquidator, the court may by order on the application of a shareholder or member of the corporation appoint one or more persons as liquidator. Where no liquidator

(2) Where there is no liquidator, the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. Idem R.S.O. 1970, c. 89, s. 283.

254.—(1) Upon a winding up,

Consequences of winding up

(a) the liquidator shall apply the property of the corporation in satisfaction of all its liabilities *pari passu* and, subject thereto, shall distribute the property rateably among the shareholders or members according to their rights and interests in the corporation;

(b) in distributing the property of the corporation, the wages of all clerks, labourers, servants, apprentices and other wage earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not exceeding three months wages and for vacation pay accrued for not more than twelve months under the *Employment Standards Act* and the regulations thereunder or under a collective agreement made by the corporation, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims; R.S.O. 1980, c. 137

(c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

(2) Section 52 of the *Trustee Act* applies with necessary modifications to liquidators. Distribution of property
R.S.O. 1980, c. 572 R.S.O. 1970, c. 89, s. 284.

255. The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. Payment of costs and expenses R.S.O. 1970, c. 89, s. 285.

256.—(1) The liquidator may,

Powers of liquidators

(a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;

- (b) carry on the business of the corporation so far as is necessary for the beneficial winding up of the corporation;
- (c) sell *en bloc* or in parcels the real and personal property, effects and things in action of the corporation by public auction or private sale;
- (d) do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration to the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be done conveniently in the name of the corporation;
- (h) do and execute all such other things as are necessary for winding up the affairs of the corporation and distributing its property.

Bills of exchange, etc., to be deemed drawn in due course

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of the corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Where moneys deemed to be due to liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself. R.S.O. 1970, c. 89, s. 286.

Nature of liability of contributory

257. The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. R.S.O. 1970, c. 89, s. 287.

258. If a contributory dies before or after he has been placed on the list of contributories, his legal representatives are liable in due course of administration to contribute to the property of the corporation in discharge of the liability of such deceased contributory and shall be contributories accordingly. R.S.O. 1970, c. 89, s. 288.

Who liable
in case of
his death

259.—(1) The liquidator shall deposit in a chartered bank in Ontario all sums of money that he has belonging to the corporation if such sums amount to \$100 or more.

Deposit in
bank by
liquidator

(2) If inspectors have been appointed, the bank shall be one approved by them.

Approval of
bank by
inspectors

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only on the joint cheque of the liquidator and one of the inspectors, if any.

Separate
deposit
account to
be kept;
withdrawal
from account

(4) At every meeting of the shareholders or members of the corporation the liquidator shall produce a pass-book or statement of accounts showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting.

Liquidators
to produce
bank
pass-book

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder or member of the corporation. R.S.O. 1970, c. 89, s. 289.

Idem

260. For the purpose of proving claims, sections 25, 26 and 27 of the *Assignments and Preferences Act* apply with necessary modifications, except that, where the word “judge” is used therein, the word “court” as used in this Act shall be substituted. R.S.O. 1970, c. 89, s. 290.

Proving
claim
R.S.O. 1980,
c. 33

261. Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as it prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1970, c. 89, s. 291.

Application
for direction

Examination
of persons as
to estate

262.—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director or officer of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court considers capable of giving information concerning its trade, dealings, estate or effects.

Damages
against
delinquent
directors,
etc.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director or officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, money of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and order him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the court considers just, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust as the court considers just. R.S.O. 1970, c. 89, s. 292.

Proceedings
by share-
holders

263.—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, if any, refuses or neglects to take such proceeding after being required so to do, the shareholder or member may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

Benefits,
when for
shareholders

(2) Thereupon any benefit derived from such proceeding belongs exclusively to the shareholder or member instituting the proceeding for his benefit and that of any other shareholder or member who has joined him in causing the institution of the proceeding.

when for
corporation

(3) If before such order is granted, the liquidator signifies to the court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted

within such time, belongs to the corporation. R.S.O. 1970, c. 89, s. 293.

264. The rights conferred by this Act are in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. R.S.O. 1970, c. 89, s. 294.

Rights
conferred by
Act to be
in addition
to other
powers

265. At any time during a winding up, the court, upon the application of a shareholder or member or creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court considers fit. R.S.O. 1970, c. 89, s. 295.

Stay of
winding-up
proceedings

266.—(1) Where the affairs of the corporation have been fully wound up voluntarily, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings.

Account of
voluntary
winding up
to be made
by liquidator
to a general
meeting

(2) The liquidator shall within ten days after the holding of the meeting file a notice with the Minister stating that the meeting was held and the date thereof.

Notice of
holding of
meeting

(3) On the expiration of three months from the date of the filing of the notice, the corporation is *ipso facto* dissolved.

Dissolution

(4) At any time during the three-month period mentioned in subsection (3), the court may, on the application of the liquidator or any other person interested, make an order deferring the date on which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is *ipso facto* dissolved on the date so fixed.

Extension

(5) The person on whose application the order was made shall within ten days after it was made file with the Minister a copy of it certified under the seal of the court.

Copy of
extension
order to be
filed

Offence

(6) A person who fails to comply with any requirement of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 296.

Order for dissolution

267.—(1) Notwithstanding section 266, in the case of a voluntary winding up or in the case of a winding up by order of the court, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved at and from the date of the order.

Copy of dissolution order to be filed

(2) The person on whose application the order was made shall within ten days after it was made file with the Minister a copy of it certified under the seal of the court.

Offence

(3) A person who fails to comply with any requirement of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 297.

Where shareholder unknown

268.—(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders or members because a shareholder or member is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder or member may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder or member, and thereupon subsections 319 (5) and (6) apply thereto.

Idem

(2) A delivery or conveyance under subsection (1) shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause 254 (1) (a).

Where creditor unknown

(3) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor and thereupon subsections 319 (5) and (6) apply thereto.

Idem

(4) A payment under subsection (3) shall be deemed to be in satisfaction of the debt for the purposes of clause 254 (1) (a). R.S.O. 1970, c. 89, s. 298.

Disposal of books, etc., after winding up

269.—(1) Where a corporation has been wound up under this Act and is about to be dissolved, its books, accounts and documents and those of the liquidator may be disposed

of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under order.

(2) After the lapse of five years from the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of such books, accounts and documents has been committed by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1970, c. 89, s. 299.

Where responsibility as to custody of books, etc., to cease

270.—(1) Where a corporation is being wound up under an order of the court and the realization and distribution of its property has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court may direct, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Provision for discharge of liquidator and distribution by the court

(2) In such case, the court may make an order directing how the books, accounts and documents of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as it thinks fit. R.S.O. 1970, c. 89, s. 300.

Disposal of books and documents

271. The Lieutenant Governor in Council may make rules for the due carrying out of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under the *Winding-up Act* (Canada) apply. R.S.O. 1970, c. 89, s. 301.

Rules of procedure

R.S.C. 1970, c. W-10

PART VII

CORPORATIONS, GENERAL

272. Subject to section 2, this Part, except where it is otherwise expressly provided, applies,

Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late

Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and

- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1970, c. 89, s. 302.

R.S.O. 1980,
c. 249

Incorporation subject to trusts

273. A corporation is, upon its incorporation, invested with all the property and rights, real and personal, theretofore held by or for it under any trust created with a view to its incorporation. R.S.O. 1970, c. 89, s. 303.

General corporate powers

274. A corporation, unless otherwise expressly provided in the Act or instrument creating it, has and shall be deemed to have had from its creation the capacity of a natural person and may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. R.S.O. 1970, c. 89, s. 304.

Incidental powers

275. A corporation has power,

- (a) to construct, maintain and alter any buildings or works necessary or convenient for its objects;
- (b) to acquire by purchase, lease or otherwise and to hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer so necessary, to sell, alienate and convey the same. R.S.O. 1970, c. 89, s. 305.

Restrictions on holding land

276.—(1) No corporation and no trustee on its behalf shall acquire or hold any land or interest therein, not necessary for the actual use and occupation of the corporation or for carrying on its undertaking or not held by way of security, for more than seven years after its acquisition if the land was never so necessary or after it has ceased to be so necessary.

Extension of period

(2) The Lieutenant Governor in Council may extend the period of seven years mentioned in subsection (1), but no such extension or extensions shall exceed five years in all.

(3) A corporation shall give to the Minister when required a full and correct statement of all land or interest therein at the date of such statement held by or in trust for the corporation. R.S.O. 1970, c. 89, s. 306. Statement as to land held

277.—(1) Subject to subsection (2), a corporation shall at all times have its head office in the place in Ontario where the letters patent provide that the head office is to be situate. Head office

(2) A corporation may by special resolution change the location of its head office to another place in Ontario. Change of head office

(3) Where the location of the head office of a corporation is changed by reason only of the annexation or amalgamation of the place in which the head office is situate to or with another municipality, such change does not constitute and has never constituted a change within the meaning of subsection (2). Where municipality annexed or amalgamated

(4) Notice of the special resolution shall be filed with the Minister and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution. Filing and publication

(5) A corporation that fails to comply with subsection (3) is guilty of an offence and on conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 307. Offence

278.—(1) Notwithstanding this or any other Act or law, no corporation that has objects in whole or in part of a social nature, other than a corporation commonly known as a service club, shall change the location of any of its premises without the prior consent in writing of the Minister. Social clubs, change of premises

(2) The giving of the consent mentioned in subsection (1) is in the discretion of the Minister. R.S.O. 1970, c. 89, s. 308. Idem

279. A corporation shall have a seal which shall be adopted and may be altered or changed by by-law. R.S.O. 1970, c. 89, s. 309. Seal

280.—(1) A contract that if made between individual persons would be by law required to be in writing and under seal may be made on behalf of a corporation in writing under the seal of the corporation. Contracts in writing under seal

Contracts
in writing
not under
seal

(2) A contract that if made between individual persons would be by law required to be in writing signed by the parties to be charged therewith may be made on behalf of a corporation in writing signed by any person acting under its authority, express or implied.

Parol
contracts

(3) A contract that if made between individual persons would be by law valid although made by parol only and not reduced into writing may be made by parol on behalf of a corporation by any person acting under its authority, express or implied. R.S.O. 1970, c. 89, s. 310.

Power of
attorney by
corporation

281. A corporation may, by writing under seal, empower any person, either generally or in respect of any specified matters, as its attorney to execute on its behalf deeds to which it is a party in any capacity in any place situate in or outside Ontario, and every deed signed by such attorney on behalf of the corporation and under his seal binds the corporation and has the same effect as if it were under the seal of the corporation. R.S.O. 1970, c. 89, s. 311.

Authentica-
tion of
documents,
etc.

282. A document requiring authentication by a corporation may be signed by any director or by any authorized person and need not be under seal. R.S.O. 1970, c. 89, s. 312.

Directors

283.—(1) The affairs of every corporation shall be managed by a board of directors howsoever designated.

Number

(2) The board of directors of a corporation shall consist of a fixed number of directors not fewer than three.

Conduct of
business

(3) Subject to subsection 298 (1), no business of a corporation shall be transacted by its directors except at a meeting of directors at which a quorum of the board is present.

Idem

(4) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. R.S.O. 1970, c. 89, s. 313.

First
directors

284.—(1) The persons named as first directors in the Act or instrument creating the corporation are the directors of the corporation until replaced by the same number of others duly elected or appointed in their stead.

Idem

(2) The first directors of the corporation have all the powers and duties and are subject to all the liabilities of directors.

(3) In the case of corporations incorporated before the 30th day of April, 1954, "first directors" in this section means provisional directors. R.S.O. 1970, c. 89, s. 314.

Interpre-
tation

285—(1) A corporation may by special resolution increase or decrease the number of its directors.

Change in
number of
directors

(2) Notice of the special resolution shall be filed with the Minister and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution.

Notice of
special
resolution

(3) A corporation that fails to comply with subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 315.

Offence

286.—(1) Subject to subsections (2) and (3), no person shall be a director of a corporation unless he is a shareholder or member of the corporation, and, if he ceases to be a shareholder or member, he thereupon ceases to be a director.

Qualification
of directors,
must be
shareholders

(2) A person may be a director of a corporation if he becomes a shareholder or member of the corporation within ten days after his election or appointment as a director, but, if he fails to become a shareholder or member within such ten days, he thereupon ceases to be a director and shall not be re-elected or reappointed unless he is a shareholder or member of the corporation.

Exception

(3) A corporation,

Exception,
hospitals
and stock
exchanges

(a) operating a hospital within the meaning of the *Public Hospitals Act*; or

R.S.O. 1980,
c. 410

(b) operating a recognized stock exchange,

may by by-law provide that a person may, with his consent in writing, be a director of the corporation notwithstanding that he is not a shareholder or member of the corporation. R.S.O. 1970, c. 89, s. 316 (1-3).

(4) A director shall be eighteen or more years of age. R.S.O. 1970, c. 89, s. 316 (4); 1971, c. 98, s. 4, Sched., par. 9.

Age

Bankrupts

(5) No undischarged bankrupt shall be a director, and, if a director becomes a bankrupt, he thereupon ceases to be a director. R.S.O. 1970, c. 89, s. 316 (5).

Election of directors

287.—(1) The directors shall be elected by the shareholders or members in general meeting and the election shall be by ballot or in such other manner as the by-laws of the corporation prescribe.

Idem

(2) Unless the letters patent or supplementary letters patent otherwise provide, the election of directors shall take place yearly and all the directors then in office shall retire, but, if qualified, are eligible for re-election.

Exception

(3) Subsection (2) does not affect the operation of any by-law passed before the 30th day of April, 1954, that provides that the election of directors shall take place otherwise than yearly.

Continuance in office

(4) If an election of directors is not held at the proper time, the directors continue in office until their successors are elected.

Rotation of directors

(5) The letters patent or supplementary letters patent may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. R.S.O. 1970, c. 89, s. 317 (1-5).

Quorum of directors

288.—(1) Unless the letters patent, supplementary letters patent or a special resolution otherwise provides, a majority of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors.

Vacancies

(2) As long as there is a quorum of directors in office, any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors then in office.

Idem

(3) Whenever there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the shareholders or members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any shareholder or member. R.S.O. 1970, c. 89, s. 318.

289.—(1) The directors shall elect a president from President among themselves.

(2) The directors shall appoint a secretary and may Other officers appoint one or more vice-presidents and other officers.

(3) Notwithstanding subsections (1) and (2), in the case of Corporations without share capital a corporation without share capital, if the letters patent, supplementary letters patent or by-laws so provide, the officers of the corporation or any of them may be elected or appointed at a general meeting of the members duly called for that purpose.

(4) If the office of secretary is vacant or if for any reason Acting secretary the secretary is unable to act, anything required or authorized to be done by the secretary may be done by an assistant secretary or, if there is no assistant secretary able to act, by any other officer of the corporation authorized generally or specifically in that behalf by the directors. R.S.O. 1970, c. 89, s. 319.

290. A corporation may by special resolution provide for Chairman of the board the election by the directors from among themselves of a chairman of the board of directors and define his duties, and may assign to the chairman of the board of directors any or all of the duties of the president or other officer of the corporation, and in that case the special resolution shall fix and prescribe the duties of the president. R.S.O. 1970, c. 89, s. 320.

291.—(1) Except in the case of the president and the Qualification of officers chairman of the board of directors, no officer of the corporation need be a director or a shareholder or member of the corporation unless the by-laws so provide.

(2) Subsection (1) does not apply to a corporation operating Application of subs. (1) a recognized stock exchange. R.S.O. 1970, c. 89, s. 321.

292. The acts of a director or of an officer are valid Validity of acts of directors, etc. notwithstanding any defect that may afterwards be discovered in his appointment or qualification. R.S.O. 1970, c. 89, s. 322.

293. A corporation shall hold an annual meeting of its Annual meetings shareholders or members not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting. R.S.O. 1970, c. 89, s. 323.

**General
meetings**

294. The directors may at any time call a general meeting of the shareholders or members for the transaction of any business, the general nature of which is specified in the notice calling the meeting. R.S.O. 1970, c. 89, s. 324.

**Requisition
for meeting**

295.—(1) Shareholders of a company holding not less than one-tenth of the issued shares of the company that carry the right to vote at the meeting proposed to be held, or not less than one-tenth of the members of a corporation without share capital entitled to vote at the meeting proposed to be held, as the case may be, may request the directors to call a general meeting of the shareholders or members for any purpose connected with the affairs of the corporation that is not inconsistent with this Act.

Requisition

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation and may consist of several documents in like form signed by one or more requisitionists.

**Duty of
directors to
call meeting**

(3) Upon deposit of the requisition, the directors shall call forthwith a general meeting of the shareholders or members for the transaction of the business stated in the requisition.

**Where
requisi-
tionists may
call meeting**

(4) If the directors do not within twenty-one days from the date of the deposit of the requisition call and hold such meeting, any of the requisitionists may call such meeting which shall be held within sixty days from the date of the deposit of the requisition.

**Calling of
meeting**

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of shareholders or members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of such meeting.

**Repayment
of expenses**

(6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors to call such meeting shall be repaid to the requisitionists by the corporation and any amount so repaid shall be retained by the corporation out of any moneys due or to become due from the corporation by way of fees or other remuneration in respect of their services to such of the directors as were in default, unless at such meeting the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists. R.S.O. 1970, c. 89, s. 325.

296.—(1) On the requisition in writing of shareholders of a company holding not less than one-twentieth of the issued shares of the company that carry the right to vote at the meeting to which the requisition relates or not less than one-twentieth of the members of a corporation without share capital entitled to vote at the meeting to which the requisition relates, as the case may be, the directors shall,

Circulation
of
shareholders'
resolutions,
etc.

(a) give to the shareholders or members entitled to notice of the next meeting of shareholders or members notice of any resolution that may properly be moved and is intended to be moved at that meeting; or

(b) circulate to the shareholders or members entitled to vote at the next meeting of shareholders or members a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each shareholder or member entitled thereto in the same manner and at the same time as that prescribed by this Act for the sending of notice of meetings of shareholders or members.

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,

Idem
Deposit of
requisition,
etc.

(a) the requisition, signed by the requisitionists, is deposited at the head office of the corporation,

(i) in the case of a requisition requiring notice of a resolution to be given, not less than ten days before the meeting,

(ii) in the case of a requisition requiring a statement to be circulated, not less than seven days before the meeting; and

(b) there is deposited with the requisition a sum reasonably sufficient to meet the corporation's expenses in giving effect thereto.

Where directors not bound to circulate statement

(5) The directors are not bound under this section to circulate any statement if, on the application of the corporation or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and on any such application the court may order the costs of the corporation to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application.

Where no liability

(6) A corporation and a director, officer, employee or person acting on its behalf, except a requisitionist, is not liable in damages or otherwise by reason only of the circulation of a notice or statement or both in compliance with this section.

Duty to deal with requisitioned matter

(7) Notwithstanding anything in the by-laws of the corporation, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates.

Repayment of expenses

(8) The sum deposited under clause (4) (b) shall be repaid to the requisitionists by the corporation unless at the meeting to which the requisition relates the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists.

Offence

(9) A director of a corporation who authorizes, permits or acquiesces in any contravention of any requirement of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 326.

Court may direct method of holding meetings

297. If for any reason it is impracticable to call a meeting of shareholders or members of the corporation in any manner in which meetings of shareholders or members may be called or to conduct the meeting in the manner prescribed by this Act, the letters patent, supplementary letters patent or by-laws, the court may, on the application of a director or a shareholder or member who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with such an order shall for all purposes be deemed to be a meeting of shareholders or members of the corporation duly called, held and conducted. R.S.O. 1970, c. 89, s. 327.

First-year by-laws and resolutions

298.—(1) Any by-law or resolution signed during a corporation's first year of existence by all the directors is as

valid and effective as if passed at a meeting of the directors duly called, constituted and held for that purpose.

(2) Any resolution signed during the corporation's first ^{Idem} year of existence by all the shareholders or members is as valid and effective as if passed at a meeting of the shareholders or members duly called, constituted and held for that purpose.

(3) Any by-law passed at any time during a corporation's ^{Alternative method of confirming by-laws} existence may, in lieu of confirmation at a general meeting, be confirmed in writing by all the shareholders or members entitled to vote at such meeting.

(4) Where a by-law or resolution purports to have been ^{Evidentiary value of signatures} passed or confirmed under this section by the signatures of all the directors, shareholders or members, as the case may be, of the corporation, the signatures to such by-law or resolution are admissible in evidence as *prima facie* proof of the signatures of all the directors, shareholders or members, as the case may be, and are admissible in evidence as *prima facie* proof that the signatories to the by-law or resolution were all the directors, shareholders or members, as the case may be, at the date that the by-law or resolution purports so to have been passed or confirmed. R.S.O. 1970, c. 89, s. 328.

299.—(1) A corporation shall cause minutes of all proceed- ^{Minute books} ings at meetings of the shareholders or members and of the directors and of any executive committee to be entered in books kept for that purpose.

(2) Any such minutes, if purporting to be signed by the ^{Evidence} chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting, are admissible in evidence as *prima facie* proof of the proceedings.

(3) Where minutes in accordance with this section have ^{Validity} been made of the proceedings of a meeting of the shareholders or members or of the directors or any executive committee, then, until the contrary is proved, the meeting shall be deemed to have been duly called, constituted and held and all proceedings had thereat to have been duly had and all appointments of directors, officers or liquidators made thereat shall be deemed to have been duly made. R.S.O. 1970, c. 89, s. 329.

300. A corporation shall cause the following documents ^{Documents and registers} and registers to be kept:

1. A copy of the letters patent and of any supplementary letters patent issued to the corporation and of the memorandum of agreement, if any, or, if incorporated by special Act, a copy of the Act.
2. All by-laws and special resolutions of the corporation.
3. A register of shareholders or members in which are set out the names alphabetically arranged of all persons who are shareholders or members or have been within ten years shareholders or members of the corporation and the address of every such person while a shareholder or member and, in the case of a company, in which are set out also the number and class of shares held by each shareholder and the amounts paid up and remaining unpaid on their respective shares.
4. A register of directors in which are set out the names, addresses and callings of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director. R.S.O. 1970, c. 89, s. 330.

Documents
prima facie
evidence

301. The documents and registers mentioned in sections 41 and 300 are admissible in evidence as *prima facie* proof before and after dissolution of the corporation of all facts purporting to be stated therein. R.S.O. 1970, c. 89, s. 331.

Books of
account

302. A corporation shall cause to be kept proper books of account and accounting records with respect to all financial and other transactions of the corporation and, without derogating from the generality of the foregoing, records of,

- (a) all sums of money received and disbursed by the corporation and the matters with respect to which receipt and disbursement took place;
- (b) all sales and purchases of the corporation;
- (c) the assets and liabilities of the corporation; and
- (d) all other transactions affecting the financial position of the corporation. R.S.O. 1970, c. 89, s. 332.

Untrue
entries

303. A director, officer or employee of a corporation who makes or assists in making any entry in the minutes of proceedings mentioned in section 299, in the documents and

registers mentioned in sections 41 and 300 or in the books of account or accounting records mentioned in section 302, knowing it to be untrue, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both. R.S.O. 1970, c. 89, s. 333.

304.—(1) The minutes of proceedings mentioned in section 299, the documents and registers mentioned in sections 41 and 300 and the books of account and accounting records mentioned in section 302 shall, during the normal business hours of the corporation, be open to inspection by any director and shall, except as provided in section 43 and in subsections (2) and (3) of this section, be kept at the head office of the corporation. Records to be kept at head office

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations and assets and liabilities thereof or to such business of the corporation as was carried on or supervised or accounted for at such place, but there shall be kept at the head office of the corporation or such other place as is authorized under subsection (3) such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation. Records of account at branch

(3) Upon necessity therefor being shown and adequate assurance given that the minutes, documents, registers, books of account and accounting records mentioned in subsection (1) may be inspected by any person entitled thereto at the head office or some other place in Ontario designated by the Minister after application to him for such inspection, he may upon such terms as he sees fit by order permit any corporation to keep such of them at such place or places, other than the head office, as he sees fit. Exception

(4) A director, officer or employee of a corporation who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$200. Offence

(5) The Minister may by order upon such terms as he sees fit rescind any order made under subsection (3) or any order made by the Lieutenant Governor in Council under a predecessor of that subsection. R.S.O. 1970, c. 89, s. 334. Rescission of orders made under subs. (3)

305.—(1) The minutes of proceedings at meetings of shareholders or members mentioned in section 299 and the documents and registers mentioned in sections 41 and 300, during the normal business hours of the corporation, shall, at the place or places where they are kept, be open to inspection by the shareholders or members and creditors of Records to be open for inspection

the corporation or their agents or legal representatives, and any of them may make extracts therefrom.

Offence

(2) Every person who refuses to permit a person entitled thereto to inspect such minutes, documents or registers, or to make extracts therefrom, is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 335.

List of
shareholders

306.—(1) No shareholder or member or creditor or the agent or legal representative of any of them shall make or cause to be made a list of all or any of the shareholders or members of the corporation, unless he has filed with the corporation or its agent an affidavit of such shareholder, member or creditor in the following form, and, where the shareholder, member or creditor is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation:

Form of Affidavit

Province of Ontario	In the matter of
County of	(Insert name of corporation)

I,, of the.....of.....
in the.....of.....,
make oath and say:

1. I am a shareholder (or member or creditor) of the above-named corporation.
(Where the shareholder, member or creditor is a corporation, indicate office and authority of deponent in paragraph 1.)
2. I am applying to make a list of the shareholders (or members) of the above-named corporation.
3. I require the list of shareholders (or members) only for purposes connected with the above-named corporation.
4. The list of shareholders (or members) and the information contained therein will be used only for purposes connected with the above-named corporation.

SWORN, etc.

Offence

(2) Every person, other than a corporation or its agent, who uses a list of all or any of the shareholders or members of the corporation for the purpose of delivering or sending to all or any of such shareholders or members advertising or other printed matter relating to shares or securities, other than the shares or securities of the corporation, or for purposes not connected with the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

(3) Purposes connected with the corporation include any effort to influence the voting of shareholders or members at any meeting of the corporation and include the acquisition or offering of shares to acquire control or to effect an amalgamation or reorganization and any other purpose approved by the Minister. R.S.O. 1970, c. 89, s. 336.

307.—(1) Any person, upon payment of a reasonable charge therefor and upon filing with the corporation or its agent the affidavit referred to in subsection (2), may require a corporation, other than a private company, or its transfer agent to furnish within ten days from the filing of such affidavit a list setting out the names alphabetically arranged of all persons who are shareholders or members of the corporation, the number of shares owned by each such person and the address of each such person as shown on the books of the corporation made up to a date not more than ten days prior to the date of filing the affidavit.

(2) The affidavit referred to in subsection (1) shall be made by the applicant and shall be in the following form:

Form of Affidavit

Province of Ontario
County of

In the matter of
(Insert name of corporation)

I,, of the of
in the of
make oath and say:

(Where the applicant is a corporation, indicate office and authority of deponent.)

1. I hereby apply for a list of the shareholders (or members) of the above-named corporation.

2. I require the list of shareholders (or members) only for purposes connected with the above-named corporation.

3. The list of shareholders (or members) and the information contained therein will be used only for purposes connected with the above-named corporation.

SWORN, etc.

(3) Where the applicant is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation.

(4) Every person who uses a list of shareholders or members of a corporation obtained under this section,

(a) for the purpose of delivering or sending to all or any of such shareholders or members advertising or

other printed matter relating to shares or securities other than the shares or securities of the corporation; or

(b) for any purpose not connected with the corporation,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence

(5) Every corporation or transfer agent that fails to furnish a list in accordance with subsection (1) when so required is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and every director or officer of such corporation or transfer agent who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a like fine.

Interpre-
tation

(6) Purposes connected with the corporation include any effort to influence the voting of shareholders or members at any meeting of the corporation, any offer to acquire shares in the corporation or any effort to effect an amalgamation or reorganization and any other purpose approved by the Minister. R.S.O. 1970, c. 89, s. 337.

Offence

308. Every person who offers for sale or sells or purchases or otherwise traffics in a list or a copy of a list of all or any of the shareholders or members of a corporation is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a corporation, every director or officer of such corporation who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a like fine. R.S.O. 1970, c. 89, s. 338.

Power of
court to
correct

309.—(1) If the name of a person is, without sufficient cause, entered in or omitted from the minutes of proceedings mentioned in section 299 or from the documents or registers mentioned in sections 41 and 300, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or shareholder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the court for an order that the minutes, documents or registers be rectified, and the court may dismiss such application or make an order for the rectification of the minutes, documents or registers, and may direct the corporation to compensate the party aggrieved for any damage he has sustained.

Decision as
to title

(2) The court may, in any proceeding under this section, decide any question relating to the entitlement of a person

who is a party to such proceeding to have his name entered in or omitted from such minutes, documents or registers, whether such question arises between two or more shareholders or members or alleged shareholders or members, or between any shareholder or member or alleged shareholder or member and the corporation.

- (3) The court may direct an issue to be tried. Trial of
issue
- (4) An appeal lies from the decision of the court as if it Appeal
had been given in an action.
- (5) This section does not deprive any court of any jurisdic- Jurisdiction
of courts not
affected
tion it otherwise has.
- (6) The costs of any proceeding under this section are in Costs
the discretion of the court. R.S.O. 1970, c. 89, s. 339.

310.—(1) Upon an application by the shareholders of a Investiga-
tions and
audits
company holding shares representing not less than one-tenth of the issued capital of the company, or upon an application of at least one-tenth of the members of a corporation without share capital, the court may appoint an inspector to investigate the affairs and management of the corporation or may appoint a person to audit its books.

(2) The application shall be supported by such evidence Evidence
as the court requires for the purpose of showing that the applicants have good reason for requiring the investigation or audit, as the case may be.

(3) The court may require the applicants to give security Security
for costs
to cover the probable cost of the investigation or audit and may make rules and prescribe the manner in which and the extent to which the investigation or audit is to be conducted.

(4) Such inspector or auditor shall report thereon to the Report on
and expense
of investiga-
tion or audit
court and the expense of the investigation shall, in the discretion of the court, be defrayed by the corporation or by the applicants or partly by the corporation and partly by the applicants.

(5) A corporation may, by resolution passed at an annual Corporation
may appoint
inspector
for same
purpose
meeting or at general meeting called for that purpose, appoint an inspector to investigate its affairs and management.

(6) The inspector appointed under subsection (5) has the Powers and
duties of
inspector
same powers and shall perform the same duties as an inspector appointed under subsection (1) and he shall make his report in such manner and to such persons as the corporation by resolution directs.

Production
of books and
documents

(7) All officers and agents of the corporation shall produce for the examination of any inspector or auditor appointed under this section all books and records in their custody or power.

Examination
on oath

(8) Any such inspector or auditor may examine upon oath the officers, agents and employees of the corporation in relation to its affairs and management.

Offence

(9) Every officer or agent who refuses to produce any book or record referred to in subsection (7) and every person so examined who refuses to answer any question relating to the affairs and management of the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$200.

Report
admissible in
proceedings

(10) A copy of the report of the inspector or auditor, as the case may be, authenticated by the court or under the seal of the corporation whose affairs and management he has investigated, is admissible in any legal proceedings as evidence of the opinion of the inspector or auditor in relation to any matter contained in the report. R.S.O. 1970, c. 89, s. 340.

Corporation
with fewer
than three
shareholders
or members
exercising
corporate
powers

311.—(1) If a corporation exercises its corporate powers when its shareholders or members are fewer than three for a period of more than six months after the number has been so reduced, every person who was a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers is severally liable for the payment of the whole of the debts of the corporation contracted during such time and may be sued for the debts without the joinder in the action of the corporation or of any other shareholder or member.

Shareholder
or member
may relieve
himself from
liability

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Minister of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Revocation
of charter

(3) If after notice from the Minister the corporation refuses or neglects to bring the number of its shareholders or members up to three, such refusal or neglect may be regarded by the Lieutenant Governor as sufficient cause for the making of an order under subsection 317 (1). R.S.O. 1970, c. 89, s. 341.

312.—(1) A corporation incorporated otherwise than by letters patent and being at the time of its application a subsisting corporation may apply for letters patent under this Act, and the Lieutenant Governor may issue letters patent continuing it as if it had been incorporated under this Act. Bringing corporations under this Act

(2) Where a corporation applies for the issue of letters patent under subsection (1), the Lieutenant Governor may, by the letters patent, limit or extend the powers of the corporation, name its directors and change its corporate name, as the applicant desires. Change of powers, etc.

(3) A corporation incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Lieutenant Governor to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Lieutenant Governor for letters patent continuing it as if it had been incorporated under this Act, and the Lieutenant Governor may issue such letters patent on application supported by such material as appears satisfactory and such letters patent may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Lieutenant Governor to be fit and proper. R.S.O. 1970, c. 89, s. 342. Transfer of foreign corporations

313.—(1) A corporation incorporated under the laws of Ontario may, if authorized by a special resolution, by the Minister and by the laws of any other jurisdiction in Canada, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction. Transfer of Ontario corporations

(2) The corporation shall file with the Minister a notice of the issue of the instrument of continuation and on and after the date of the filing of such instrument this Act ceases to apply to that corporation. Notice

(3) This section applies only to a jurisdiction that has legislation in force that permits corporations incorporated under its laws to apply for an instrument of continuation under the laws of Ontario. R.S.O. 1970, c. 89, s. 343. Application

314. All rights of creditors against the property, rights and assets of a corporation amalgamated under section 113 or continued under section 312, and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties Rights of creditors preserved

of the corporation thenceforth attach to the amalgamated or continued corporation and may be enforced against it. R.S.O. 1970, c. 89, s. 344.

Forfeiture
for non-user

315.—(1) If a corporation heretofore or hereafter incorporated by letters patent did not go or does not go into actual *bona fide* operation within two years after incorporation or for any two consecutive years did not or does not use its corporate powers, the Lieutenant Governor, after having given the corporation such notice as he considers proper, may by order declare such powers forfeited, except so far as is necessary for the winding up of the corporation.

Rights of
creditors not
affected

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture.

Revival

(3) Where the powers of a corporation have been forfeited under subsection (1) or a predecessor of subsection (1), the Lieutenant Governor on the application of the corporation may by order, on such terms and conditions as he sees fit to impose, revive the corporate powers. R.S.O. 1970, c. 89, s. 345.

Social clubs
cause for
cancellation

316. Notwithstanding anything to the contrary in any Act, in any letters patent or in any supplementary letters patent, if it is made to appear to the satisfaction of the Minister that a corporation that has objects in whole or in part of a social nature,

R.S.C. 1970,
c. C-34

(a) occupies and uses a house, room or place as a club that, except for paragraph 179 (2) (a) of the *Criminal Code* (Canada), would be a common gaming house as defined in subsection (1) thereof; or

(b) occupies premises that are equipped, guarded, constructed or operated so as to hinder or prevent lawful access to and inspection by police or fire officers, or are found fitted or provided with any means or contrivance for playing any game of chance or any mixed game of chance and skill, gaming or betting or with any device for concealing, removing or destroying such means or contrivance,

the Lieutenant Governor may make an order under subsection 317 (1). R.S.O. 1970, c. 89, s. 346; 1978, c. 29, s. 3.

Termination
of existence
for cause

317.—(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he considers fit,

- (a) cancel the letters patent of a corporation and declare it to be dissolved on such date as the order may fix;
- (b) declare the corporate existence of a corporation incorporated otherwise than by letters patent to be terminated and the corporation to be dissolved on such date as the order may fix; or
- (c) cancel any supplementary letters patent issued to a corporation. R.S.O. 1970, c. 89, s. 347 (1).

(2) The Minister, under such circumstances and at any time ^{Inquiry} as he in his discretion thinks advisable, may authorize any officer of the Ministry of the Minister to conduct an inquiry for the purpose of determining whether or not there is sufficient cause for the making of an order under subsection (1). R.S.O. 1970, c. 89, s. 347 (2); 1972, c. 1, s. 1.

(3) Every officer so authorized has the power to summon ^{Powers of inquiring officer} any person to appear before him as a witness in such inquiry and to require such person to give evidence on oath, touching any matter relevant to the purpose of the inquiry, and to produce such documents and things as such officer considers requisite for that purpose.

(4) Every such officer has the same power to enforce the ^{Witnesses} attendance of witnesses and to compel them to give evidence and to produce documents and things as is vested in any court in civil cases.

(5) Section 9 of the *Evidence Act* applies to any witness and to the evidence given by him before any such officer in any such ^{Witness may be required to answer} inquiry. R.S.O. 1980, c. 145

(6) An appeal lies from an order made under subsection (1) to ^{Appeal} the Divisional Court upon a question of law only.

(7) The Minister is entitled to be heard, by counsel or other- ^{Minister to be heard} wise, upon the argument of any such appeal.

(8) No costs are payable by or to any person by reason of ^{No costs} or in respect of any such appeal. R.S.O. 1970, c. 89, s. 347 (3-8).

(9) Where it appears that a corporation is in default of filing with the Minister a notice required under section 5 of the *Corporations Information Act* and that notice of such default has been sent by registered mail to the corporation or has been published once in *The Ontario Gazette*, the Lieutenant Governor ^{Order for dissolution} R.S.O. 1980, c. 96

may by order, after 180 days after the notice has been sent or published,

- (a) cancel the letters patent of the corporation and declare it to be dissolved on such date as the order may fix; or
- (b) declare the corporate existence of the corporation, if it was incorporated otherwise than by letters patent, to be terminated and the corporation to be dissolved on such date as the order may fix.

Revival

(10) Where a corporation has been dissolved under subsection (9) or any predecessor thereof, the Lieutenant Governor, on the application of any interested person made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation shall, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, be restored to its legal position, including all its property, rights, privileges and franchises, and be subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. 1976, c. 68, s. 1.

**Continuation
of existence
for limited
period for
particular
purpose**

318. Notwithstanding its dissolution under section 317, a corporation continues in existence,

- (a) for a period of three years after the date of its dissolution for the purpose only of prosecution or defending any action, suit or other proceeding commenced by or against it prior to its dissolution; and
- (b) until such time, beyond the three-year period mentioned in clause (a), if necessary, as any decree, order or judgment of a court of competent jurisdiction in any such action, suit or other proceeding is fully executed. R.S.O. 1970, c. 89, s. 348.

**Surrender
of charter**

319.—(1) The charter of a corporation incorporated by letters patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant Governor,

- (a) that the surrender of its charter has been authorized,
 - (i) by a majority of the votes cast at a meeting of its shareholders or members duly called for that purpose or by such other vote as the letters

patent or supplementary letters patent of the corporation provide, or

- (ii) by the consent in writing of all the shareholders or members entitled to vote at such meeting;
- (b) that it has parted with its property by distributing it rateably among its shareholders or members according to their rights and interests in the corporation;
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for or protected or its creditors or other persons having interests in its debts, obligations or liabilities consent;
- (d) that there are no proceedings pending in any court against it; and
- (e) that it has given notice of its intention to surrender its charter by publication once in *The Ontario Gazette* and once in a newspaper published at or as near as may be to the place where it has its head office.

(2) The Lieutenant Governor, upon due compliance with this section, may by order accept the surrender of the charter and declare the corporation to be dissolved on such date as the order may fix.

Acceptance
of surrender
and dissolu-
tion of
corporation

(3) When a corporation surrenders its charter and a shareholder or member is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause (1) (b).

Where
shareholder
unknown

(4) When a corporation surrenders its charter and a creditor is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due protection of the debt for the purposes of clause (1) (c).

Where
creditor
unknown

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection (3) is in a form other than money, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into money.

Power to
convert

Payment
to person
entitled

(6) If the share of the property delivered or conveyed under subsection (3) or its equivalent in money, or the amount paid under subsection (4), as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him.

Property
now held by
Public
Trustee

(7) Where an order has been made before the 30th day of April, 1954, accepting the surrender of the charter of a corporation and the Public Trustee is holding property of the corporation in trust for its shareholders, members or creditors, subsections (5) and (6) apply to the property so held, except that the ten-year period mentioned in subsection (6) commences on the 30th day of April, 1954. R.S.O. 1970, c. 89, s. 349.

Termination
of existence
of corpora-
tion not
incorporated
by letters
patent

320. The corporate existence of a corporation incorporated otherwise than by letters patent may be terminated by order of the Lieutenant Governor upon application therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by letters patent may surrender its charter. R.S.O. 1970, c. 89, s. 350.

Liability of
shareholders
to creditors

321.—(1) Notwithstanding the dissolution of a corporation, the shareholders or members among whom its property has been distributed remain liable to its creditors to the amount received by them respectively upon such distribution, and an action may be brought within one year from the date of such dissolution in a court of competent jurisdiction to enforce such liability.

Action
against one
shareholder
as represent-
ing class

(2) Where there are numerous shareholders or members, such court may permit an action to be brought against one or more shareholders or members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders or members as are found and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. R.S.O. 1970, c. 89, s. 351.

Forfeiture of
undisposed
property

322. Any real or personal property of a corporation that has not been disposed of at the date of its dissolution is forfeit to the Crown. R.S.O. 1970, c. 89, s. 352.

323. A copy of any by-law of a corporation under its seal and purporting to be signed by an officer of the corporation, or a certificate similarly authenticated to the effect that a person is a shareholder or member of the corporation and that dues or other sums payable are due and have not been paid, or that a call or assessment that has been made is due and has not been paid, shall be received in all courts as *prima facie* proof of the by-law or of the statements contained in such certificate. R.S.O. 1970, c. 89, s. 353.

Evidence of
by-laws

324.—(1) Subject to the letters patent, supplementary letters patent or by-laws, a notice or demand to be served or made by a corporation upon a shareholder or member may be served or made personally or sent by registered letter addressed to the shareholder or member at his last address as shown on the books of the corporation.

Service of
notice

(2) Subject to the letters patent, supplementary letters patent or by-laws, a notice or other document served by mail by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of mail. R.S.O. 1970, c. 89, s. 354.

Time of
service

325. Proof of any matter that is necessary to be made under this Act may be made by certificate. R.S.O. 1970, c. 89, s. 355.

Proof of
matters
under this
Act

326. A corporation that insures property with or insures the property of other persons, where such insurance is reciprocal and for protection only and not for profit, shall not be deemed to be an insurer or an insurance corporation within the meaning of this Act. R.S.O. 1970, c. 89, s. 356.

Reciprocal
insurance

327. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing a tariff of fees to be paid on applications, returns, filings, searches, copies of documents and any other transaction under this Act, and such fees may vary in amount, having regard to the nature of the corporation, the authorized capital or otherwise, as is deemed expedient;
- (b) respecting any matter that he considers requisite for carrying out the objects of this Act, and, without limiting the generality of the foregoing, respecting names of corporations or classes thereof, objects of corporations, authorized capital of companies, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares or classes of

shares of companies, or any other matter pertaining to letters patent, supplementary letters patent or orders or the applications therefor. R.S.O. 1970, c. 89, s. 357.

Fees to be
paid in
advance

328. No letters patent and no supplementary letters patent shall be issued and no order shall be made and no document shall be accepted for filing under this Act until all fees therefor have been paid. R.S.O. 1970, c. 89, s. 358.

Removal of
proceedings
into
Supreme
Court

329.—(1) Where proceedings under this Act are brought in a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be moved into the Supreme Court.

Transmis-
sion of
proceedings

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the proceedings are brought.

Removal of
proceedings

(3) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court.

Reference
to Master

(4) Where an application is made to or is removed into the Supreme Court, the court may refer any question to the Master or other officer for inquiry and report. R.S.O. 1970, c. 89, s. 359.

Appeal

330. An appeal lies to the Divisional Court from any order made by a court under this Act. R.S.O. 1970, c. 89, s. 360.

Untrue
statements

331.—(1) Every person who makes or assists in making a statement in any return, certificate, financial statement or other document required by or for the purposes of this Act or the regulations made under this Act, knowing it to be untrue, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both.

Limitation
of action

(2) No prosecution under subsection (1) shall be commenced more than one year after the facts upon which the prosecution is based first came to the personal knowledge of the Minister or Deputy Minister. R.S.O. 1970, c. 89, s. 361.

332. Every corporation that, and every person who, being ^{General penalty} a director or officer of the corporation, or acting on its behalf, commits any act contrary to any provision of this Act, or fails or neglects to comply with any such provision, is guilty of an offence and on conviction, if no penalty for such act, failure or neglect is expressly provided by this Act, is liable to a fine of not more than \$200. R.S.O. 1970, c. 89, s. 362.

333. Where a shareholder or member or creditor of a corporation is aggrieved by the failure of the corporation or a director, officer or employee of the corporation to perform any duty imposed upon it or him by this Act, the shareholder, member or creditor, notwithstanding the imposition of any penalty and in addition to any other rights that he may have, may apply to the court for an order directing the corporation, director, officer or employee, as the case may be, to perform such duty, and upon such application the court may make such order or such other order as the court thinks fit. R.S.O. 1970, c. 89, s. 363. ^{Aggrieved shareholders}

334.—(1) Where it appears to the Commission that any person or company to which section 73, subsection 85 (1) or subsection 86 (1) applies has failed to comply with or is contravening any such provision, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention, the Commission may apply to a judge of the High Court designated by the Chief Justice of the High Court for an order directing such person or company to comply with such provision or for an order restraining such person or company from contravening such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit. ^{Order for compliance}

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 89, s. 364. ^{Appeal}

335. The Lieutenant Governor in Council may relieve a corporation incorporated before the 30th day of April, 1954, from compliance with any provision of this Act. R.S.O. 1970, c. 89, s. 365. ^{Relief from compliance with Act}

PART VIII

EXTRA-PROVINCIAL CORPORATIONS

336. In this Part,

^{Interpretation}

- (a) “extra-provincial corporation” means a corporation incorporated otherwise than by or under the authority of an Act of the Legislature;

(b) "regulations" means the regulations made under this Part. R.S.O. 1970, c. 89, s. 366.

Classes
of extra-
provincial
corporations

337. Extra-provincial corporations shall be divided into the following classes:

Class 1. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Upper Canada, or by charter of the Government of that Province.

Class 2. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, and carrying on business in Ontario on the 1st day of July, 1900.

Class 3. Corporations that had before the 1st day of July, 1900, received from the Government of Ontario a licence to carry on business in Ontario, or that have been authorized by an Act of the Legislature to carry on business in Ontario while such licence or Act is in force.

R.S.O. 1980,
cc. 218, 221,
249

Class 4. Corporations licensed or registered under the *Insurance Act*, the *Investment Contracts Act* or the *Loan and Trust Corporations Act*.

Class 5. Corporations not having gain for any of their objects.

Class 6. Corporations incorporated by or under the authority of an Act of the Parliament of Canada and authorized to carry on business in Ontario.

Class 7. Corporations exempted from this Part by the Lieutenant Governor in Council.

1972, c. 143

Class 8. Corporations within the meaning of sections 138 to 142 of *The Corporations Tax Act*, 1972 as those sections read immediately prior to the 13th day of April, 1973.

R.S.O. 1980,
c. 244

Class 9. Corporations engaged in the brewery, distillery or wine industry that are licensed under the *Liquor Licence Act*.

Class 10. Corporations, other than those mentioned in classes 1 to 9, incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, authorized to carry on business in Upper

Canada, but not carrying on business in Ontario on the 1st day of July, 1900.

Class 11. Corporations not within classes 1 to 10. R.S.O. 1970, c. 89, s. 367.

338.—(1) Where it appears that legislation is in force in any other province of Canada exempting corporations incorporated under the law of Ontario from any Act corresponding with this Part, the Lieutenant Governor in Council may exempt corporations incorporated under the law of such other province from this Part. Reciprocal legislation as to exemption from licensing

(2) Notwithstanding subsection (1), the Lieutenant Governor in Council may exempt any class or classes of extra-provincial corporations from this Part. R.S.O. 1970, c. 89, s. 368. General exempting power

339.—(1) No extra-provincial corporation within class 10 or 11 mentioned in section 337 shall carry on in Ontario any of its business unless a licence under this Part or a predecessor of this Part so to do has been issued to it and unless such licence is in force, and no person, as the representative or agent of or acting in any other capacity for any such extra-provincial corporation, shall carry on any of its business in Ontario unless it has received such licence and unless such licence is in force. Carrying on business without licence prohibited

(2) If an extra-provincial corporation has no resident agent or representative or no office or place of business in Ontario, the taking of orders for or the buying or selling of goods, wares and merchandise by travellers or by correspondence shall not be deemed a carrying on of business within the meaning of this Part. R.S.O. 1970, c. 89, s. 369. Exception

340.—(1) An extra-provincial corporation within class 10 or 11 mentioned in section 337 may apply to the Lieutenant Governor for a licence to carry on its business or part thereof, and to exercise its powers or part thereof, in Ontario. Application for licence

(2) Upon the application for a licence, the applicant shall establish to the satisfaction of the Minister, or such officer as is charged by him to report thereon, that this Part and the regulations have been complied with, and the Minister or such officer may, for that or for any other purpose under this Part, take evidence under oath. R.S.O. 1970, c. 89, s. 370. Proof to be furnished on application

341. No limitations or conditions shall be included in any such licence that would limit the rights of an extra-provincial corporation within class 10 mentioned in section 337 to carry on in Ontario such part of its business and to exercise in Conditions of licence

Ontario such part of its powers as by its Act or instrument of incorporation it is authorized to carry on and exercise therein. R.S.O. 1970, c. 89, s. 371.

Right to
licence when
within
class 10

342. Where an extra-provincial corporation within class 10 mentioned in section 337 complies with this Part and the regulations, the Lieutenant Governor shall issue a licence to it to carry on its business and to exercise its powers in Ontario. R.S.O. 1970, c. 89, s. 372.

Right to
licence when
within
class 11

343.—(1) Where an extra-provincial corporation within class 11 mentioned in section 337 complies with this Part and the regulations, the Lieutenant Governor may in his discretion issue a licence to it to carry on the whole or such part of its business and to exercise the whole or such part of its powers in Ontario as is embraced in the licence, subject, however, to such limitations and conditions as are specified therein.

Name

(2) A licence shall not be issued to an extra-provincial corporation within class 11 mentioned in section 337 if its name is objectionable. R.S.O. 1970, c. 89, s. 373.

Powers of
Minister

344. The Minister may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred on the Lieutenant Governor under this Part. R.S.O. 1970, c. 89, s. 374.

Notice

345. The Minister shall cause notice of the issue of a licence under this Part to be given in *The Ontario Gazette*, and a copy of the *Gazette* containing the notice is admissible in evidence as *prima facie* proof in all proceedings by and against the corporation and otherwise under this Part or otherwise of the issue of the licence and of the terms thereof mentioned in the notice, and a copy of the licence certified by the Minister or his deputy is sufficient evidence of the licence before all courts and tribunals. R.S.O. 1970, c. 89, s. 375.

Power to
hold land

346. Every extra-provincial corporation having a licence under this Part or a predecessor of this Part, and every extra-provincial corporation exempted under subsection 338 (1) from this Part, has power, subject to its Act or instrument of incorporation, to acquire by purchase, lease or otherwise, to hold, to mortgage, to sell, to alienate and to convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking. R.S.O. 1970, c. 89, s. 376.

Cancellation
of licence

347.—(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as

he deems fit, cancel any licence issued under this Part or a predecessor of this Part.

(2) The Minister shall cause notice of the cancellation of a licence under this section to be given in *The Ontario Gazette*.^{Publication of notice}
R.S.O. 1970, c. 89, s. 377.

348. Any extra-provincial corporation within class 10 or 11 mentioned in section 337 or its representative or agent that carries on in Ontario any part of its business contrary to section 339 is guilty of an offence and on conviction is liable to a fine of \$50 for every day upon which it or he so carries on business. R.S.O. 1970, c. 89, s. 378. ^{Offence}

349.—(1) So long as an extra-provincial corporation within class 11 mentioned in section 337 is unlicensed, it is not capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in whole or in part in Ontario in the course of or in connection with business carried on contrary to section 339. ^{Prohibition of actions}

(2) Upon the issue or restoration of a licence, or the removal of any suspension thereof, such action or other proceeding may be maintained as if the licence had been granted or restored or the suspension had been removed before the institution thereof. R.S.O. 1970, c. 89, s. 379. ^{Idem}

350. There shall be paid for a licence under this Part such fee as is prescribed by the Lieutenant Governor in Council. ^{Fees on licences}
R.S.O. 1970, c. 89, s. 380.

351. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) respecting the evidence required upon an application for a licence under this Part as to the incorporation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;
- (b) respecting the appointment and continuance by the corporation of a person as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) respecting the limitations and conditions that may be specified in licences;
- (d) respecting the forms of licences, powers of attorney, applications, notices, statements, returns and other

documents relating to applications and other proceedings under this Part;

- (*e*) prescribing fees for licences under this Part. R.S.O. 1970, c. 89, s. 381.

SCHEDULE

CONVERSION OF JOINT STOCK LIFE COMPANIES INTO
MUTUAL COMPANIES

1. The terms and provisions of any plan referred to in section 211 of the *Corporations Act* shall be set forth in detail in a by-law made by the directors and confirmed at a special general meeting of the company duly called for the purpose of considering the by-law, and there shall be recorded in the minutes of the meeting the number of votes for and the number of votes against confirmation of the by-law, the votes of shareholders and the votes of policyholders being recorded separately.

Details of
plan to be
set forth
in by-law
R.S.O. 1980,
c. 95

2. No such by-law becomes effective until sanctioned by the Lieutenant Governor in Council, and in no case shall any such by-law be sanctioned unless the Lieutenant Governor in Council is satisfied that,

Sanction of
by-law by
Lieutenant
Governor in
Council

- (a) the conversion of the company into a mutual company may reasonably be expected to be achieved under the terms of the by-law and in accordance with this paragraph;
- (b) the paid-up capital of the company has ceased to be an important factor in safeguarding the interests of the policyholders of the company, having regard to the quality and amount of assets of the company, the surplus of the company relative to its liabilities, the nature of the business carried on by the company and any other considerations deemed by the Lieutenant Governor in Council to be relevant;
- (c) the majority of the votes cast by shareholders and the majority of the votes cast by policyholders at the special general meeting referred to in paragraph 1, whether in person or by proxy, were in favour of confirmation of the by-law;
- (d) the company holds offers from shareholders, in such terms as to preclude the withdrawal thereof prior to notice by the company in accordance with paragraph 13, to sell to the company, at a price fixed by the directors, not less than 25 per cent of all issued and outstanding shares of the capital stock of the company immediately upon the sanction of the by-law by the Lieutenant Governor in Council, or not less than 50 per cent of all issued and outstanding shares of the capital stock of the company within such period, commencing immediately upon the sanction of the by-law by the Lieutenant Governor in Council, as is specified in the by-law;
- (e) the amount required to purchase 25 per cent of the issued and outstanding shares of the capital stock of the company at the price fixed by the directors for the purposes of clause (d) does not exceed the maximum amount, determined in accordance with paragraph 9, that may be applied by the company, immediately upon the sanction of the by-law by the Lieutenant Governor in Council, in payment for shares purchased under the terms of the by-law; and
- (f) the price fixed by the directors for the purposes of clause (d) is fair and reasonable in the circumstances.

3. Upon the sanction of the by-law by the Lieutenant Governor in Council, the price fixed for the purposes of clause (d) of paragraph 2 shall continue to be the price that may be paid for shares purchased under the

Prices to
be paid for
shares
purchased
under by-law

terms of the by-law until such price is changed by the directors in accordance with paragraph 4.

Change in
price, when
effective

4. The directors may from time to time change the price to be paid for shares purchased under the terms of the by-law, but no such change becomes effective until approved by the Minister on the report of the Superintendent.

Period for
which price
to remain
in effect

5. The price fixed for the purposes of clause (d) of paragraph 2 and any subsequent change in price approved in accordance with paragraph 4 shall remain in effect for a period of not less than six months from the date of sanction of the by-law or the date of approval by the Minister, as the case may be.

Payment

6. All shares purchased under the terms of the by-law shall be paid for by the company in full at the time of the purchase thereof, but nothing in this paragraph shall be construed as prohibiting the company from applying, in payment for any shares so purchased, the full amount of the purchase price thereof by promissory note, payable at a fixed or determinable future time not later than ten years from the date of the making thereof and bearing a rate of interest fixed by the directors and approved by the Minister on the report of the Superintendent.

Date for
commence-
ment of
purchase of
shares

7. The by-law shall fix a day for the commencement of purchase of shares under the terms of the by-law, which day shall be not sooner than the day following the day the by-law is sanctioned by the Lieutenant Governor in Council.

Purchase
of shares
offered for
sale

8. Subject to paragraph 9, the company shall purchase all shares offered for sale under the terms of the by-law on the day or days fixed by the terms of the offer in each case for the sale of those shares and at the price in effect on the day the offer was received or the day fixed by the by-law for the purposes of paragraph 7, whichever is the later, except that no such purchase shall be made prior to the day so fixed by the by-law.

Limitation

9. Notwithstanding anything in this Schedule, the maximum amount that may be applied by the company at any particular time in payment for shares purchased under the terms of the by-law is the amount by which,

- (a) the aggregate of the surplus and general or contingency reserves of the company, after deducting the excess of the book value over the par value of any shares purchased under the terms of the by-law on or before the date as of which the condition and affairs of the company are required to be shown in the most recent annual statement as required by the *Corporations Act*,

R.S.O. 1980,
c. 95

exceeds the aggregate of,

- (b) 6 per cent of the total assets of the company, or such lesser percentage of the total assets of the company as may be approved by the Lieutenant Governor in Council, upon application by the company, as safe and reasonable in the circumstances having regard to the bases and methods used in the computation of the policy reserves of the company, the quality of its assets, the nature of the business transacted by the company, the earnings of the company and any other matters deemed by the Lieutenant Governor in Council to be relevant thereto; and
- (c) the total amount applied by the company before that particular time in payment for any shares purchased under the terms of the by-law after the date referred to in clause (a).

10. For the purposes of paragraph 9, the assets, surplus and general or Idem contingency reserves of the company and the book value of any shares purchased under the terms of the by-law shall be taken as shown in the annual statement referred to in clause *a* of paragraph 9.

11. Where, by reason of paragraph 9, the company may, at any particular time, purchase some but not all of the shares in respect of which offers for sale at that time have been received, the amount that may be applied by the company at that time in payment for shares purchased under the terms of the by-law shall be applied by the company by apportionment among all of the shares so offered for sale at that time, or any of them, in such manner as is specified in the by-law. Number of shares to be purchased from each shareholder offering shares

12. The company shall cause a register to be kept in which shall be recorded the offers for sale of shares under the terms of the by-law in the order in which such offers are received by the company, showing, in respect of each such offer, Register to be kept

- (a) the date of receipt by the company of the offer;
- (b) the name and address of the shareholder making the offer;
- (c) the number of shares so offered by the shareholder making the offer and the day or days fixed by the terms of the offer for the sale of those shares;
- (d) the price at which each of the shares so offered may be purchased;
- (e) the date of purchase, if any, of each of the shares so offered and the number of shares purchased; and
- (f) the date of withdrawal, if any, of the offer and the number of shares affected thereby.

13. Where, by reason of paragraph 9, the company is required to discontinue the purchase of shares under the terms of the by-law, the company shall give notice of such discontinuation to each shareholder on the register whose offer for the sale of shares has not been fully taken up by the company, but any such offer as regards shares not so purchased shall continue to be effective and shall maintain its place on the register until withdrawn by the shareholder by notice in writing to the company. Notice to shareholders of discontinuation of purchases

14. Where the company has purchased any shares of the capital stock of the company under the terms of the by-law, Shares purchased: general

- (a) the number of policyholders' directors of the company shall at all times thereafter be not less than,
 - (i) one-third of the total number of directors, or
 - (ii) that proportion of the total number of directors, as nearly as may be, that the total number of shares purchased under the terms of the by-law is of the total number of shares outstanding immediately prior to the sanction of the by-law by the Lieutenant Governor in Council,

whichever is the greater, except that nothing in this clause shall be held to require an increase in the number of policyholders' directors except as vacancies occur among the shareholders' directors;

- (b) the company shall not thereafter sell any of the shares so purchased, issue any new capital stock or make any calls on shares of the capital stock subscribed;
- (c) any dividends thereafter payable to shareholders shall be at a rate not less than the average rate paid in the three years immediately preceding the sanction of the by-law by the Lieutenant Governor in Council, unless the company establishes to the satisfaction of the Minister that a reduction therein is justified by reason of the earnings and general financial condition of the company; and
- (d) shares purchased under the terms of the by-law rank equally with other shares in the declaration of dividends to shareholders, but any dividends that may be payable in respect of shares so purchased shall be paid by transfer of the applicable amount from the shareholders' account to the insurance funds of the company.

Idem

15. In respect of each share purchased under the terms of the by-law, until the capital stock of the company has been cancelled in accordance with paragraph 20,

R.S.O. 1980,
c. 95

- (a) the company may include in its assets shown in the annual statement required by the *Corporations Act* an amount not exceeding the purchase price of the share, minus one-fifth of the excess of the purchase price over the par value thereof for each complete year that has elapsed since the date of purchase of the share; and
- (b) the policyholders' directors shall have additional voting rights corresponding to the voting rights that might have been exercised by the holder of the share if he had not sold it, and, unless the by-law otherwise provides, such additional voting rights shall be divided as nearly as may be equally among the policyholders' directors, and the remainder, if any, shall be exercised by such one of the policyholders' directors as is designated for the purpose by resolution of all of the directors.

Notice where
90 per cent
or more of
shares
acquired by
company

16. At such time as the company first acquires 90 per cent or more of the shares of its capital stock, it shall notify the Minister and each of the remaining shareholders of the company to that effect, and, for the purposes of this paragraph, notice to any shareholder shall be deemed to have been given by the company if the company has forwarded to him by registered mail, at his address shown in the book or books in which the names of the shareholders of the company are recorded, the notice required by this paragraph.

Contents
of notice

17. The notice required by paragraph 16 to be given to each of the remaining shareholders of the company shall request each such shareholder to offer his shares for sale forthwith to the company, and shall state therein the substance of paragraph 18.

Acquisition
of remaining
shares by
company

18. All shares of a shareholder remaining outstanding at the expiration of six months from the date of the notice required by paragraph 16, or at the expiration of such further period as may be required by reason of paragraph 9, shall, upon tender by the company to the shareholder of an amount equal to the price in effect,

- (a) in the case of shares in respect of which any offer for sale was received by the company prior to the date of the notice, on the day the offer was received; or
- (b) in the case of any other shares, on the date of the notice,

be deemed to have been purchased by the company, and, for the purposes of this paragraph, tender shall be deemed to have been made to a shareholder by the company if made to him in person or by registered mail forwarded to him at his address shown in the book or books referred to in paragraph 16.

19. Where tender of an amount in accordance with paragraph 18 has been made and the amount so tendered has not been accepted, the amount so tendered shall be retained by the company for payment to the person entitled thereto, and until so paid shall be shown on the books of the company as a liability. ^{tendered to be retained for payment}

20. Where the company has purchased or is deemed by paragraph 18 to have purchased all of the shares of the capital stock of the company and the shares have been written down in the books of the company to their par value, the capital stock of the company shall thereupon be retired and cancelled by resolution of the board of directors, and the company shall then become a mutual company without capital stock, having for its members the participating policyholders and such other policyholders, if any, as may be authorized by by-law, and the directors shall take all necessary steps to reorganize the affairs of the company accordingly. ^{Retirement and cancellation of capital stock}

21. No change in any by-law of a company described in paragraph 1 shall be made after the sanction of the by-law by the Lieutenant Governor in Council, except by a subsequent by-law of the company made by the directors and confirmed at a special general meeting of the company duly called for that purpose, and no such subsequent by-law becomes effective until sanctioned by the Lieutenant Governor in Council. ^{No change in by-law except with sanction of Lieutenant Governor in Council}

22. In this Schedule, "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of the *Insurance Act*, and "Superintendent" means the Superintendent of Insurance. ^{Interpretation R.S.O. 1980, c. 218}

R.S.O. 1970, c. 89, Sched.

CHAPTER 96

Corporations Information Act

1. In this Act,

Interpre-
tation

- (a) “corporation” means any corporation with or without share capital wherever or however incorporated and includes “extra-provincial corporation”;
- (b) “court” means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;
- (c) “extra-provincial corporation” means a corporation with or without share capital incorporated otherwise than by or under the authority of an Act of the Legislature;
- (d) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
- (e) “Ministry” means the Ministry of the Minister;
- (f) “prescribed” means prescribed by the regulations;
- (g) “regulations” means the regulations made under this Act;
- (h) “resident Canadian” means an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada. 1976, c. 66, s. 1; 1978, c. 96, s. 1.

2.—(1) No corporation shall carry on business in Ontario or identify itself to the public in Ontario by a name or style other than its corporate name unless the name or style is first registered with the Minister. Registration
of business
names

(2) A corporation may register a name or style referred to in subsection (1) by filing with the Minister a statement setting out, Idem

- (a) the name of the corporation;
- (b) the jurisdiction in which it was incorporated;
- (c) the name or style in which it intends to carry on business or identify itself to the public;
- (d) a brief description of the business, activity or service to be carried on in or identified by the name being registered; and
- (e) the location of its head office giving street and number, if any. 1976, c. 66, s. 2 (1, 2).

Form of
name

(3) A name or style registered under this section shall not have the word "Limited", "Incorporated" or "Corporation" or its corresponding abbreviation "Ltd.", "Inc." or "Corp." or the corresponding version in another language, as the last word thereof. 1978, c. 96, s. 2.

Use of
corporate
name

(4) Notwithstanding subsection (1), a corporation shall set out its corporate name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation.

Rights to
name

(5) The registration of a name or style under this section does not confer on the corporation any right to such name or style that it does not otherwise have.

Expiration
and renewal

(6) Every registration made under this section expires five years after the registration, unless sooner withdrawn by the corporation, subject to renewal for a further period of five years from time to time. 1976, c. 66, s. 2 (4-6).

Filing of
initial
notice

3.—(1) Subject to section 4, within sixty days of the later of the 7th day of December, 1976, the date of its amalgamation, incorporation, or continuation, or of the date of establishing its head or other office or carrying on any business activity or service or a part thereof in Ontario, every corporation, unless of a class exempted by the regulations, shall make out, verify and file with the Minister an initial notice setting out as of the date of filing,

- (a) the name of the corporation;
- (b) the date and manner of its incorporation, continuation or amalgamation;
- (c) the jurisdiction under which the corporation was incorporated, continued or amalgamated;

- (d) the names and residence addresses, giving street and number, if any, of the directors and the date on which each became a director and, where the corporation is a corporation with share capital, whether or not each director is a resident Canadian;
- (e) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and general manager, or the holders of any equivalent offices, and the date on which each became an officer;
- (f) the location of its head office and, if different from the head office, the principal place of business in Ontario, giving street and number, if any, in each case. 1976, c. 66, s. 3 (1); 1978, c. 96, s. 3 (1).

(2) Where a corporation has filed the latest annual return required under *The Corporations Information Act, 1971* before the 7th day of December, 1976, the annual return together with any notice of change filed shall be deemed to be the initial notice required by subsection (1). 1976, c. 66, s. 3 (2).

Continuation
of previous
filing
1971, c. 27

(3) Every corporation to which subsection (1) applies shall file with the Minister a notice of change for every change under clauses (1) (a) to (f) or change in the information filed under section 4 within ten days after the change took place and the notice shall repeat the information required under section 4 and shall specify any changes, together with the dates thereof that have taken place, but the retirement of a director and his subsequent re-election at a meeting of shareholders for the next ensuing term of office shall be deemed not to be a change. 1978, c. 96, s. 3 (2), *part, revised*.

Notice of
change

(4) Where a corporation incorporated under the laws of Ontario changes only its name it is exempt from filing the information required under subsection (3). 1978, c. 96, s. 3 (2), *part*.

Exemption

(5) Every notice filed under subsection (1) or (3) shall be verified by the certificate of an officer or director of the corporation or other individual person having knowledge of the affairs of the corporation.

Verification

(6) A corporation that holds a licence under the *Mortmain and Charitable Uses Act* shall be deemed to be carrying on business in Ontario for the purposes of subsection (1).

Carrying on
business
R.S.O. 1980,
c. 297

(7) The corporation shall retain a duplicate of all notices submitted under this Act and shall maintain a copy or copies available for examination by any shareholder, member,

Availability
of copy at
head office

director, officer or creditor of the corporation during the normal business hours of the corporation at its head or principal office in Ontario, who may make copies thereof or extracts therefrom. 1976, c. 66, s. 3 (4-6).

Extra-
provincial
corporations
R.S.O. 1980,
c. 95

4.—(1) Notwithstanding subsection 3 (1), an extra-provincial corporation holding a licence issued under Part VIII of the *Corporations Act* shall file the following information only,

- (a) the name and office address of its attorney for service in Ontario;
- (b) the name and office address of its chief officer or manager in Ontario;
- (c) the location of its principal office in Ontario.

Other
corporations

(2) Notwithstanding subsection 3 (1), a corporation incorporated, continued or amalgamated by or under the authority of an Act of the Parliament of Canada or a corporation prescribed by the regulations shall file the following information only,

- (a) the name of the corporation;
- (b) the date and manner of its incorporation, continuation or amalgamation;
- (c) the jurisdiction under which the corporation was incorporated, continued or amalgamated. 1976, c. 66, s. 4; 1978, c. 96, s. 4, *part, revised*.

Further
notice on
request

5. The Minister may, at any time by request in writing sent by prepaid mail or otherwise, require any corporation to file within thirty days after the date of the request a notice upon any or all of the matters contained in section 3 or 4. 1978, c. 96, s. 4, *part*.

Date of
receipt

6. The Minister shall cause every notice received in his office under this Act to be endorsed with a memorandum of the date of its receipt and to be recorded. 1976, c. 66, s. 6.

Examination
by public

7.—(1) Upon payment of the prescribed fee, any person is entitled to examine the record of any document filed under section 2, 3, 4 or 5 or any predecessor thereof, and to make extracts therefrom.

Furnishing
copies

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certified copy of the contents of any document filed with him under section 2, 3, 4 or 5 or any predecessor thereof. 1976, c. 66, s. 7.

8.—(1) The Minister may at any time by notice in writing, given by prepaid mail or otherwise, require any corporation to file within the time specified in the notice a return upon any subject connected with its affairs and relevant to the administration or enforcement of this Act, the *Business Corporations Act*, the *Corporations Act* or the *Co-operative Corporations Act*.

Information
required by
Minister

R.S.O. 1980,
cc. 54, 95, 91

(2) The Minister or any employee of the Ministry shall not disclose any information contained in a return made under subsection (1) except where the disclosure is necessary for the administration or enforcement of this Act, the *Business Corporations Act*, the *Corporations Act* or the *Co-operative Corporations Act* or where disclosure is required by a court for the purposes of an action, prosecution or other proceeding. 1976, c. 66, s. 8.

Con-
fidentiality

9. The Minister may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. 1976, c. 66, s. 9; 1978, c. 96, s. 5.

Delegation by
Minister

10.—(1) Every person who makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a corporation, to a fine of not more than \$25,000.

Offence

(2) No person is guilty of an offence under subsection (1) if he did not know the statement was false or misleading and, in the exercise of reasonable diligence, could not have known that the statement was false or misleading.

Knowledge
as element
of offence

(3) Where a corporation is guilty of an offence under subsection (1), every director or officer of such corporation who authorized, permitted or acquiesced in such offence is also guilty of an offence and, on conviction, is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 1976, c. 66, s. 10.

Respon-
sibility of
directors and
officers

11.—(1) Every person who,

General
offence

(a) contravenes this Act or the regulations; or

- (b) fails to observe or comply with any order, direction, or other requirement made under this Act or the regulations,

is, except where such conduct constitutes an offence under section 10, guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$25,000.

Respon-
sibility of
directors and
officers

(2) Where a corporation is guilty of an offence under subsection (1), every director or officer of the corporation, and, where the corporation is an extra-provincial corporation, every person acting as his representative in Ontario, who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 1976, c. 66, s. 11.

Consent to
prosecute

12.—(1) No proceedings under section 10 or 11 shall be commenced except with the consent of or under the direction of the Minister.

Limitation

(2) No proceedings under section 10 or 11 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him. 1976, c. 66, s. 12.

Order for
compliance

13. Where it appears to the Minister or to any shareholder, member, creditor, director or officer of the corporation that the corporation has not complied with any provision of this Act or the regulations or any order, direction or other requirement made under this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, he may apply to the court for an order directing the corporation or any director or officer or employee, as the case may be, to comply with such provision, order, direction or other requirement or for an order restraining such person from contravening such provision, order, direction or requirement and upon such application the court may make such order, or such other order as the court thinks fit. 1976, c. 66, s. 13.

Disability to
sue when in
default

14.—(1) Where a corporation has failed to file a notice or register a name or style as required by this Act, the corporation is not capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made by the corporation.

Subsequent
filing

(2) Where a notice is filed or a name or style is registered, as the case may be, after an action or proceeding is commenced by the corporation, the action or proceeding may be con-

tinued as if a notice had been filed or the name or style had been registered in accordance with this Act prior to the institution of the action or proceeding. 1976, c. 66, s. 14.

15. The Minister may issue a certificate certifying,

Certificate of
Minister

- (a) as to the registration or non-registration of a name or style under section 2;
- (b) as to the filing or non-filing of any document or material required or permitted to be filed under this Act;
- (c) as to the time when the facts upon which proceedings are based first came to the knowledge of the Minister; or
- (d) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as a director, officer, manager or attorney for service of the corporation named in the certificate. 1976, c. 66, s. 15.

16.—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the regulations.

Execution of
certificate of
Minister

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection (1), or any certified copy, shall be received in evidence in any action, prosecution or other proceedings as *prima facie* proof of the facts so certified without personal appearance to prove the seal, the signature or the official position of the person appearing to have signed the certificate. 1976, c. 66, s. 16.

Certificates
as evidence

17. The Minister may accept the information contained in any notice filed under this Act without making any inquiry as to its completeness or accuracy. 1976, c. 66, s. 17.

Duty of
Minister

18. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) exempting any class or classes of corporations from filing notices under section 3 or 4;
- (b) providing for the registration of names and styles under section 2, the renewal thereof and for the

exemption, subject to conditions, of any corporation or corporations from the requirements of subsection 2 (4);

(c) prescribing conditions for purposes of clause (b);

(d) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;

(e) designating officers of the Ministry who may sign certificates for the purposes of section 16;

(f) respecting the form, period of retention, and destruction of any document required to be filed under this Act or a predecessor thereof. 1976, c. 66, s. 18; 1978, c. 96, s. 6.

CHAPTER 97

Corporations Tax Act

PART I

INTERPRETATION

1.—(1) In this Act and in the application of the provisions of the *Income Tax Act* (Canada) that are by this Act made applicable for the purposes of this Act, Interpretation
R.S.C. 1952,
c. 148

- (a) each of the interpretations contained in Part XVII of the *Income Tax Act* (Canada) are, except as hereinafter provided, applicable for the purposes of this Act;
- (b) the interpretations contained in the said Part XVII of the expressions “farming”, “foreign resource property”, “Minister”, “paid-up capital”, “regulations”, “taxable income”, “taxable income earned in Canada” and “tax payable” do not apply and in lieu thereof the following interpretations are applicable:
 - (i) “farming” includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing, and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming and, for the purposes of subsection 63 (2) only, does not include the maintaining of horses for racing,
 - (ii) “foreign resource property” has the meaning given to that expression by section 13 of this Act,
 - (iii) “Minister” means, unless otherwise provided in this Act, the Minister of Revenue,
 - (iv) “paid-up capital” has the meaning given to that expression by paragraph 89 (1) (c) of the

Income Tax Act (Canada), but such meaning does not apply for the purposes of Part III of this Act,

(v) "regulations" means regulations made under this Act,

(vi) "tax payable" by a corporation under any part of the Act means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 77 to 85, as the case may be,

(vii) "taxable income" has the meaning given to that expression by section 7 of this Act,

(viii) "taxable income earned in Canada" has the meaning given to that expression by section 8 of this Act;

1980-81,
c. 40 (Can.)

(c) "bank" means a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies;

(d) "family farm corporation" means a corporation that is throughout the taxation year a corporation,

(i) every share of the capital stock of which that confers on the holder thereof the right to vote was owned by an individual ordinarily resident in Canada or by any such individual and a member or members of his family ordinarily resident in Canada or by another family farm corporation,

(ii) 95 per cent of the assets of which were farming assets, and

(iii) which carried on the business of farming in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the farm;

(e) "family fishing corporation" means a corporation that is throughout the taxation year a corporation,

- (i) every share of the capital stock of which that confers on the holder thereof the right to vote was owned by an individual ordinarily resident in Canada or by any such individual and a member or members of his family ordinarily resident in Canada or by another family fishing corporation,
 - (ii) 95 per cent of the assets of which were fishing assets, and
 - (iii) which carried on the business of fishing in Ontario through the employment of a shareholder or a member of his family actually engaged in the operation of the business;
- (f) "farming assets" of a family farm corporation means,
- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming,
 - (ii) land, buildings, equipment, machinery, and live stock that are used chiefly in the operation of the farm by the corporation,
 - (iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming,
 - (iv) the building in which a shareholder or member or members of his family reside who are engaged in the operation of the farm if that building is on land that is used or is contiguous to land used by that shareholder or member or members of his family in the operation of the farm,
 - (v) shares in another family farm corporation;
- (g) "fishing assets" of a family fishing corporation means,
- (i) cash, trade accounts receivable, supplies and inventory used in the fishing business,
 - (ii) land, buildings, boats, ships, equipment, machinery and nets that are used chiefly in the operation of the fishing business by the corporation,

(iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the catching or sale of fish, and

(iv) shares in another family fishing corporation;

(h) "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;

(i) "member of his family" means, with respect to an individual referred to in clause (d) or (e),

(i) his spouse,

(ii) his child,

(iii) his father, mother, brother or sister or any lawful descendant of such brother or sister,

(iv) the brother or sister of his father or mother or any lawful descendant of any such brother or sister,

(v) the father, mother or any brother or sister of his spouse or any lawful descendant of any such brother or sister,

(vi) his son-in-law or daughter-in-law,

(vii) a person adopted by him under the *Child Welfare Act* or the spouse or any lawful descendant of such person, or

(viii) his grandfather or grandmother;

(j) "permanent establishment" has the meaning given to that expression by section 5;

(k) "timber royalty" includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada is obtained or derived, to the extent that such consideration is dependent upon, and computed by reference to, the amount of timber cut or taken. 1977, c. 58, s. 1, *part*; 1980, c. 23, s. 1.

R.S.O. 1980,
c. 66

Idem
R.S.C. 1952,
c. 148

(2) In the application of the sections of the *Income Tax Act* (Canada) that by this Act are made applicable for the purposes of this Act,

- (a) "capital cost" means the cost of property as determined for the purposes of this Act;
- (b) "undepreciated capital cost" means the undepreciated capital cost of depreciable property as determined for the purposes of this Act;
- (c) the references therein to,
 - (i) returns required to be filed under section 150 of that Act shall be deemed to be references to the returns required to be filed under section 67 of this Act, and
 - (ii) assessments to be made under section 152 of that Act shall be deemed to be references to assessments to be made under section 73 of this Act;
- (d) where a section of that Act has been made applicable for the purposes of this Act, and reference is made in that section to another provision (hereinafter in this clause referred to as the "other provision") of that Act which,
 - (i) does not apply for the purposes of this Act,
 - (ii) does not apply for the purposes of this Act because a provision of this Act is enacted to apply in lieu thereof, or
 - (iii) in respect of which the application for the purposes of this Act differs,

the following rules apply in the application of the section for the purposes of this Act,

- (iv) where subclause (i) applies, the section (except sections 20, 56, 60, paragraph 95 (1) (f) and sections 138 and 248 of that Act) shall be read as if the reference to the other provision were deleted,
- (v) where subclause (ii) applies, the reference to the other provision shall be deemed to be a reference to the provision of this Act that applies in lieu thereof, and
- (vi) where subclause (iii) applies, the reference to the other provision shall be deemed to be a reference to the other provision as it applies

for the purposes of this Act. 1977, c. 58, s. 1, *part*; 1978, c. 14, s. 1 (1).

Application
of
regulations
under
R.S.C. 1952,
c. 148

(3) Notwithstanding subsection (1), any regulation made pursuant to any provision of the *Income Tax Act* (Canada) that is by this Act made applicable for the purposes of this Act shall apply with necessary modifications for the purposes of this Act unless otherwise provided by this Act or by the regulations.

Elections
R.S.C. 1952,
c. 148

(4) Any election or designation by a corporation which has been properly made for the purposes of the *Income Tax Act* (Canada), pursuant to any provision of that Act that is by this Act made applicable for the purposes of this Act, shall be deemed to have been properly made for the purposes of this Act, provided that,

- (a) where an amount elected would be different from the amount determined in accordance with this Act, the amount determined in accordance with this Act shall apply; and
- (b) the provisions in that Act imposing penalties for late filing of such elections are not applicable for the purposes of this Act.

Registered
pension
funds

(5) Any registered pension fund or plan that has been accepted for registration by the Minister of National Revenue for Canada shall be deemed to have been accepted for registration by the Minister of Revenue. 1977, c. 58, s. 1, *part*.

R.S.C. 1952,
c. 148 applies
as amended
from time
to time

(6) The provisions of the *Income Tax Act* (Canada) by this Act made applicable for the purposes of this Act shall, unless otherwise provided in this Act, be deemed to be applicable as amended or re-enacted from time to time, and such amendments or re-enactments shall apply for the purposes of this Act in the same manner as they apply for the purposes of the *Income Tax Act* (Canada). 1977, c. 58, s. 1, *part*; 1978, c. 14, s. 1 (2).

LIABILITY FOR TAXES

Taxes
payable

2.—(1) Every corporation that is incorporated under the laws of Canada or a province thereof and that has a permanent establishment in Ontario shall for every taxation year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. 1972, c. 143, s. 2 (1); 1977, c. 58, s. 26.

(2) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has not entered into a Tax Convention or Treaty with Canada for the taxation year, and that at any time in the taxation year or a previous taxation year,

- (a) had a permanent establishment in Ontario within the meaning of section 5; or
- (b) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or timber royalty; or
- (c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 248 (1) of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation,

shall for every taxation year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. 1972, c. 143, s. 2 (2); 1975, c. 17, s. 2 (1); 1977, c. 58, s. 26; 1978, c. 14, s. 2 (1); 1980, c. 23, s. 2 (1).

(3) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has entered into a Tax Convention or Treaty with Canada for the taxation year, and that, at any time in the taxation year or a previous taxation year,

- (a) had a permanent establishment in Ontario within the meaning of section 5; or
- (b) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or a timber royalty and the corporation has elected to file a return of income under Part I of the *Income Tax Act* (Canada) pursuant to section 216 of that Act; or
- (c) disposed of taxable Canadian property, within the meaning given to that expression by subsection 248 (1) of the *Income Tax Act* (Canada) if the reference in that definition to section 2 of that Act were a reference to this section, that was property situated in Ontario as prescribed by regulation,

R.S.C. 1952,
c. 148

shall for every taxation year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. 1972, c. 143, s. 2 (3); 1975, c. 17, s. 2 (2); 1977, c. 58, s. 26; 1978, c. 14, s. 2 (2); 1980, c. 23, s. 2 (2).

Idem

(4) For the purposes of the election referred to in clause (3) (b), the reference in that subsection to "at any time in the taxation year or a previous taxation year", shall be read without reference to "or a previous taxation year". 1972, c. 143, s. 2 (4); 1977, c. 58, s. 26.

Interpre-
tation

3. For the purposes of subsection 2 (2) or (3), a corporation "owned real property, timber resource property or a timber limit" if it had a legal, equitable or beneficial interest in the real property, timber resource property or timber limit. 1975, c. 17, s. 3.

How tax
to be
determined

4.—(1) Unless otherwise provided in this Act, any tax imposed by this Act shall be determined on the amount of the paid-up capital or other subject in respect of which the amount of the tax is to be ascertained as such paid-up capital or other subject stood at the close of the taxation year of the corporation for which the tax is imposed. 1972, c. 143, s. 6 (1); 1977, c. 58, ss. 4, 26.

Idem

(2) Any tax imposed by this Act that is to be calculated in respect of,

(a) the taxable income of a corporation; or

(b) the gross premiums that become payable to insurance corporations,

shall be calculated with reference to the taxable income earned or the gross premiums that become payable, as the case may be, during the taxation year of the corporation for which the respective tax is imposed. 1972, c. 143, s. 6 (2); 1977, c. 58, s. 26.

Permanent
establish-
ment

5.—(1) In this Act, "permanent establishment" includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business.

Idem

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which he regularly fills orders which he receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

(3) The fact that a corporation has business dealings through ^{Idem} a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

(4) The fact that a corporation has a subsidiary controlled ^{Idem} corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

(5) An insurance corporation is deemed to have a permanent ^{Idem} establishment in each jurisdiction in which the corporation is registered or licensed to do business.

(6) The fact that a corporation maintains an office solely for ^{Idem} the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office. 1972, c. 143, s. 7 (1-6).

(7) Where a corporation, otherwise having a permanent ^{Idem} establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment. 1979, c. 28, s. 1.

(8) The fact that a non-resident corporation in a taxation ^{Idem} year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada whether or not the corporation exported that thing without selling it prior to exportation, or the fact that a non-resident corporation produced or presented any form of entertainment by means of a performance on a public stage or in an auditorium or other public place in Canada, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year. 1973, c. 42, s. 2; 1977, c. 58, s. 26.

(9) The use of substantial machinery or equipment in a ^{Idem} particular place at any time in a taxation year of a corporation constitutes a permanent establishment of such corporation in that place for the taxation year. 1972, c. 143, s. 7 (9); 1977, c. 58, s. 26.

(10) Where a corporation has no fixed place of business, it ^{Idem} has a permanent establishment in the principal place in which the corporation's business is conducted.

(11) A corporation has a permanent establishment in the ^{Idem} place designated in its charter or by-laws as being its head office. 1972, c. 143, s. 7 (10, 11).

PART II

DIVISION A—LIABILITY FOR INCOME TAX

Income
tax

6.—(1) Except as otherwise provided in this Part, every corporation liable to the taxes imposed under this Act by virtue of subsection 2 (1) shall, for every taxation year of the corporation, pay an income tax as hereinafter required upon its taxable income. 1972, c. 143, s. 8 (1); 1977, c. 58, s. 26.

Idem

(2) Except as otherwise provided in this Part, every corporation liable to the taxes imposed under this Act by virtue of subsection 2 (2) or (3) shall, for every taxation year of the corporation, pay an income tax as hereinafter required upon its taxable income earned in Canada. 1972, c. 143, s. 8 (2); 1977, c. 58, s. 26.

Interpre-
tation

7. The taxable income of a corporation for a taxation year is its income for the taxation year minus the deductions permitted by Division C. 1972, c. 143, s. 9; 1977, c. 58, s. 26.

Idem

8. The taxable income earned in Canada of a corporation for a taxation year is its taxable income earned in Canada determined under Division D. 1972, c. 143, s. 10; 1977, c. 58, s. 26.

DIVISION B—COMPUTATION OF INCOME

*Basic Rules*Basic
rules,
R.S.C. 1952,
c. 148, s. 3,
applicable

9.—(1) Except as hereinafter provided, section 3 of the *Income Tax Act* (Canada) is applicable for the purpose of this Act in so far as the said section applies to corporations. 1977, c. 58, s. 6, *part*.

Interpre-
tation

(2) In the application of the said section 3 for the purposes of this Act, the reference in paragraph (c) thereof to “sub-division e” shall be deemed to be a reference to Subdivision D of Division B of Part II of this Act, and the reference in the said section to “this Part” shall be deemed to be a reference to Part II of this Act.

Corpora-
tion that
becomes
subject to
this Act

(3) Subject to subsection 12 (4), for the purpose of computing the income and taxable income of a corporation for a taxation year any amount deducted or deductible by the corporation under a provision of the *Income Tax Act* (Canada) in computing its income for a previous taxation year in respect of which the corporation was not subject to the tax imposed by Part II of this Act is deemed, unless otherwise provided in the said Part II, to have been deducted or deductible, as the case may be, under the corresponding provision of this Act in computing its income or taxable income, as the case may be, for that previous taxation year. 1978, c. 14, s. 3.

10.—(1) Except as hereinafter provided, section 4 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations. 1977, c. 58, s. 7. Income or loss from a source or from sources in a place

(2) In the application of the said section 4 for the purposes of this Act, the references therein to “this Part” shall be deemed to be references to Part II of this Act. 1978, c. 14, s. 4. Interpretation

11. Notwithstanding any other provision of this Act, Land speculation tax not deductible

(a) in determining for the purposes of this Act a corporation’s capital gain or capital loss for a taxation year from the disposition of any property; or

(b) in determining for the purposes of this Act the income or loss of a corporation for a taxation year or the amount of any deduction allowed in computing the income of a corporation for a taxation year,

the amount of any tax, penalty or interest imposed or payable under *The Land Speculation Tax Act*, 1974 shall not apply to reduce the gain or increase the loss referred to in clause (a) or to reduce the income or increase the loss referred to in clause (b). 1974, c. 17. 1977, c. 58, s. 26.

SUBDIVISION A—INCOME OR LOSS FROM A BUSINESS OR PROPERTY

12.—(1) Except as hereinafter provided, the income or loss of a corporation for a taxation year from a business or property shall for the purposes of this Act be determined in accordance with subdivisions a and b of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivisions a and b are applicable to this Act in so far as the said subdivisions apply to corporations. Application of R.S.C. 1952, c. 148

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act the amount determined for the purposes of the *Income Tax Act* (Canada) as the value of property described in an inventory is applicable for the purposes of this Act, except that, Inventory of land R.S.C. 1952, c. 148

(a) where land is included in an inventory of a corporation and the corporation has, in calculating its income for the taxation year or any previous taxation year, deducted an amount referred to in clause (7) (c) in respect of such land, the amount so deducted shall not be included in determining the value of the inventory for the purposes of subsection (1); and

- (b) the Minister may determine the value of the property described in an inventory for the purposes of assessment under this Act if he is of the opinion that the values have been incorrectly determined by the corporation.

Payment or refund of a fee under Ontario Beef Calf Income Stabilization Program to be included in income

- (3) In addition to any other amount required by virtue of subsection (1) to be included in computing the income of a corporation for a taxation year as income from a business, or property, there shall be included any amount received by the corporation as a stabilization payment or refund of a fee under the Ontario Beef Calf Income Stabilization Program. 1977, c. 58, s. 8, *part*.

Disposition of depreciable property:

- (4) In the application of section 13 of the *Income Tax Act* (Canada) for the purposes of this Act, the following rules apply,

Undepreciated capital cost

- (a) subsection 13 (10) and subparagraph 13 (21) (f) (vi) are not applicable in determining the capital cost or the undepreciated capital cost of depreciable property of a prescribed class for the purposes of this Act and the regulations;

Application of R.S.C. 1952, c. 148, s. 13 (7.1)

- (b) the reference in subsection 7.1 of the said section 13 to "section 65" shall be deemed to be a reference to the said section 65 and to section 17 of this Act. 1977, c. 58, s. 8, *part*; 1978, c. 14, s. 5.

Loan to non-resident person
R.S.C. 1952, c. 148

- (5) In the application of section 17 of the *Income Tax Act* (Canada) for the purposes of this Act, subsection (2) thereof does not apply in determining whether an amount shall be included in the income of a corporation in accordance with subsection (1) thereof. 1977, c. 58, s. 8, *part*.

Management fee, rent and similar payment to non-resident to be included in income

- (6) Where an amount in respect of,

- (a) a management or administration fee or charge;
(b) a rent, royalty or a similar payment; or
(c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/14ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph 212 (1) (a), (d) or (e) of the *Income Tax Act* (Canada) or subsection 212 (5) of that Act, except that clause (b) does not apply

where the non-resident person to whom the amount is paid or payable is a corporation liable to the taxes imposed under this Act by virtue of clause 2 (2) (b) or clause 2 (3) (b). 1977, c. 58, s. 8, *part*; 1979, c. 28, s. 2 (1).

(7) Subsection 18 (2) of the *Income Tax Act* (Canada) and paragraphs 20 (1) (a) and (v.1) of that Act are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, as is allowed by regulation; Deductions allowed
Capital cost of property
- (b) an amount paid by the corporation in the taxation year as a fee under the Ontario Beef Calf Income Stabilization Program; Fee under Ontario Beef Calf Income Stabilization Program
- (c) notwithstanding paragraph 20 (1) (c) of the *Income Tax Act* (Canada) as made applicable to this Act but subject to subsection 18 (3) of the said Act, any amount paid or payable by the corporation in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of,
 - (i) interest on borrowed money used to acquire land or on an amount payable by the corporation for land, or
 - (ii) property taxes, not including income or profits taxes or taxes computed by reference to the transfer of property, paid or payable by the corporation in respect of land to a province or a Canadian municipality,

if, having regard to all the circumstances, including the cost to the corporation of the land in relation to its gross revenue, if any, therefrom for that or any previous year, the land can reasonably be considered to have been, in that year,

 - (iii) included in the inventory of a business carried on by the corporation,
 - (iv) otherwise used in, or held in the course of, carrying on a business carried on by the corporation, orCertain interest and property taxes on land
R.S.C. 1952, c. 148

(v) held primarily for the purpose of gaining or producing income of the corporation from the land for that year,

and if none of subclauses (iii), (iv) and (v) is applicable, then the deduction under this clause is permitted only to the extent that the corporation's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing its income from the land for that year;

Resource allowance

(d) such amount as is allowed to the corporation by regulation in respect of oil or gas resources in Canada, as defined by regulation.

Deductions not allowed R.S.C. 1952, c. 148

(8) In the application of paragraph 20 (1) (n) of the *Income Tax Act* (Canada) for the purposes of this Act,

No deduction in respect of property in certain circumstances

(a) notwithstanding subsection 20 (8) of the *Income Tax Act* (Canada), the said paragraph (n) does not apply to allow a deduction in computing the income of a corporation for a taxation year from a business in respect of a property sold in the course of the business if the corporation at the end of the taxation year or at any time in the immediately following taxation year,

(i) was exempt from tax under any provision of this Part, or

(ii) ceased to have a permanent establishment in Canada; and

No deduction in respect of sale of property if security disposed of

(b) the said paragraph (n) does not apply to allow a deduction in computing the income of a corporation for a taxation year from a business where the corporation has, in the taxation year, sold, pledged, assigned or in any way disposed of any security received by it as payment in whole or in part for the sale of property in respect of which the corporation has, in that or a previous taxation year, been allowed a deduction under that paragraph for the purposes of this Act.

Interpretation

(9) In the application of paragraph 20 (1) (s) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "Minister" shall be deemed to be a reference to the Minister of National Revenue for Canada.

Crown corporations

(10) Section 27 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act and in lieu thereof the following provisions shall apply:

1. Where a corporation referred to in paragraph 149 (1) (d) Prescription of the *Income Tax Act* (Canada) is otherwise exempt under section 49 of this Act and subsection 63 (1) of this Act, such exemptions do not apply if the corporation is prescribed by regulation. R.S.C. 1952, c. 148
2. Where land has been transferred to a corporation Transfers of land for disposition prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation. 1977, c. 58, s. 8, *part*.

SUBDIVISION B—TAXABLE CAPITAL GAINS AND ALLOWABLE CAPITAL LOSSES

13.—(1) Except as hereinafter provided, the taxable capital gains and allowable capital losses of a corporation for a taxation year from the disposition of any property shall for the purposes of this Act be determined in accordance with subdivision c of Division B of Part I of the *Income Tax Act* (Canada) and the said subdivision c is applicable to this Act in so far as the said subdivision applies to corporations. Application of R.S.C. 1952, c. 148

(2) Paragraph 48 (1) (c) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act. Idem

(3) In the application of paragraph 40 (2) (a) of the *Income Tax Act* (Canada) for the purposes of this Act, subparagraph (i) thereof shall be read as though the words “was not resident” were deleted and the words “ceased to have a permanent establishment” were inserted in lieu thereof. 1977, c. 58, s. 8, *part*. Idem

(4) In computing the adjusted cost base to a corporation of property in accordance with the provisions made applicable by subsection (1), the following rules apply for the purposes of this Act, Adjustments to cost base

- (a) where the property is a foreign resource property, there shall be added to the cost of the property to the corporation that part of the foreign exploration and development expenses incurred by the corporation after 1971 with respect to the property that is not allowed as a deduction from income for purposes of this Act;

R.S.C. 1952,
c. 148

- (b) clause 53 (2) (c) (ii) (B) of the *Income Tax Act* (Canada) shall apply as if the words "foreign exploration and development expenses" were deleted;
- (c) subparagraph 53 (2) (k) (i) of the *Income Tax Act* (Canada) shall apply as if the reference in clause (B) thereof to section 65 were a reference to the said section 65 and to section 17 of this Act;
- (d) where the property is a foreign resource property, there shall be deducted in respect of such property any amount that has become receivable by the corporation at a particular time in a taxation year as the result of a transaction that occurred after the 6th day of May, 1974, in which the consideration given by the corporation for the amount was property or services the original cost of which may reasonably be regarded as having been foreign exploration and development expenses. 1977, c. 58, s. 8, *part*; 1978, c. 14, s. 6.

Interpre-
tation

(5) In this Subdivision,

- (a) "foreign exploration and development expenses" incurred by a corporation means,
 - (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by it on or in respect of exploring or drilling for petroleum or natural gas outside Canada,
 - (ii) any prospecting, exploration or development expense incurred by it in searching for minerals outside Canada,
 - (iii) any annual payment made by the corporation for the preservation of a foreign resource property, and
 - (iv) its share of the foreign exploration and development expenses incurred by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period it was a member or partner thereof;
- (b) "foreign resource property" of a corporation means any property that would be a Canadian resource property of the corporation within the meaning

of paragraph 66 (15) (c) of the *Income Tax Act* (Canada) if that paragraph were read as if the references therein to “in Canada” were references to “outside Canada” and were read without reference to the words “after 1971”. 1977, c. 58, s. 8, *part*.

SUBDIVISION C—OTHER SOURCES OF INCOME

14.—(1) Except as hereinafter provided, subdivision d of Division B of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said subdivision applies to corporations. R.S.C. 1952, c. 148
Part I (B) (d)
applicable

(2) In the application of subsection 56 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference in subparagraph (l) (i) thereof to “this Act” shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act. 1977, c. 58, s. 8, *part*. Interpre-
tation

(3) Section 59 of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act, and in lieu thereof the following provisions apply, Disposition
of resource
property

(a) where a corporation disposes of,

(i) a Canadian resource property, or

(ii) any right, licence or privilege described in subsection 58 (12) of *The Corporations Tax Act*, as it read in its application to taxation years prior to 1972, that was acquired by the corporation,

Amount
receivable as
consideration
for disposition
of resource
property

(A) before 1972 in the case of,

1. a corporation that is a principal-business corporation within the meaning given to that expression by subsection 18 (14) or that was, at the time it acquired the property, such a principal-business corporation, or

2. an association, partnership or syndicate described in subsection 83A (4) of the *Income Tax Act* (Canada) as it read in its application to the 1971 taxation year, and R.S.C. 1952,
c. 148

(B) after April 10, 1962 and before 1972, in any other case,

under an agreement or other contract or arrangement described therein,

the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year, to the extent that the proceeds become receivable in that year;

Amount
deducted
under s. 16
in preceding
year

- (b) there shall be included in computing a corporation's income for a taxation year any amount that has been deducted under section 16 in computing the corporation's income for the immediately preceding taxation year;

Disposition of
resource
property
acquired
before 1972

- (c) where a corporation has made a disposition of property owned, or deemed to have been owned, by it on the 31st day of December, 1971 and thereafter without interruption until the date of disposition that is property described in any of subparagraphs 66 (15) (c) (i) to (vi) of the *Income Tax Act* (Canada) and is not property described in subclause (a) (ii), the following rules apply,

- (i) the relevant percentage of the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the taxation year to the extent that the proceeds become receivable, and

- (ii) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this subsection and section 18,

- (A) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of subclause (i) in respect of the disposition by the corporation of the property, and

- (B) when that person subsequently disposes of the property or any right or interest therein, that person shall be deemed to have owned the property on the 31st day of December, 1971 and thereafter without interruption until the disposition thereof;

Interpre-
tation

- (d) in this subsection,

- (i) "relevant percentage" has the meaning given to that expression by subsection 59 (4) of the *Income Tax Act* (Canada),

R.S.C. 1952,
c. 148

- (ii) "disposition" and "proceeds of disposition" have the meaning given to those expressions by section 54 of the *Income Tax Act* (Canada). 1977, c. 58, s. 8, *part*; 1979, c. 28, s. 4 (1).

SUBDIVISION D—DEDUCTIONS IN COMPUTING INCOME

15.—(1) Except as hereinafter provided, section 60 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said section applies to corporations.

Application
of
R.S.C. 1952,
c. 148, s. 60

(2) In the application of subparagraph 60 (o) (i) of the said Act for the purposes of this Act, the reference therein to "this Act" shall be deemed to be a reference to both the *Income Tax Act* (Canada) and this Act.

Interpre-
tation

(3) In addition to the deductions permitted by virtue of subsection (1), there may be deducted in computing the income of a corporation for a taxation year all corporation taxes payable in the taxation year by the corporation.

Corporation
taxes
deductible

(4) In this section,

Interpre-
tation

(a) "corporation income tax" means a tax imposed by the Parliament of Canada or by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations;

(b) "corporation tax" means a tax imposed by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax. 1977, c. 58, s. 8, *part*.

16.—(1) In computing a corporation's income for a taxation year, in this subsection referred to as the "current year", where,

Reserve in
respect of
consideration
for disposition
of resource
property not
due until
subsequent
year

- (a) by virtue of clause 14 (3) (a) or (c), subsection 18 (11), or clause 18 (12) (a), an amount has been included in computing the corporation's income for the current year or a previous taxation year; or
- (b) an amount referred to in paragraph 64 (1) (b) of the *Income Tax Act* (Canada) has been included in computing, for the purposes of this Act, the corporation's income for that previous taxation year,

R.S.C. 1952,
c. 148

in respect of the disposition of any property and that amount or a part thereof is not due until a day that is after the end of the current year, there may be deducted as a reserve in respect of that amount the part thereof that is not due until a day that is after the end of the current year, not exceeding, where the property was disposed of in a taxation year preceding the current year, any amount deducted under this subsection in respect of the disposition of the property in computing the corporation's income for the taxation year immediately preceding the current year, and for greater certainty, no deduction may be made in respect of that amount under paragraph 20 (1) (n) of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 12 of this Act. 1977, c. 58, s. 8, *part*.

Application
of subs. (1)

(2) Subsection (1) does not apply to allow a deduction in computing the income of a corporation for a taxation year if the corporation, at the end of the year or at any time in the immediately following year,

- (a) was exempt from tax under any provision of this Part; or
- (b) was not resident in Canada and ceased to have a permanent establishment in Canada. 1978, c. 14, s. 7.

Application
of section

(3) For the purpose of clause 1 (2) (d), this section applies in lieu of section 64 of the *Income Tax Act* (Canada). 1977, c. 58, s. 8, *part*.

Allowance for
oil or gas well,
mine or
timber limit

17.—(1) There may be deducted in computing a corporation's income for a taxation year such amount as an allowance, if any, in respect of,

- (a) an oil or gas well, mineral resource or timber limit;
or
- (b) the processing, to the prime metal stage or its equivalent, of ore from a mineral resource,

as is allowed by regulation.

(2) For greater certainty it is hereby declared that, in the Regulations case of a regulation made under subsection (1),

(a) there may be prescribed by such regulation an amount in respect of any or all,

(i) oil or gas wells or mineral resources in which the corporation has an interest, or

(ii) processing operations described in clause (1) (b) that are carried on by the corporation; and

(b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined.

(3) Where a deduction is allowed under subsection (1) in respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions. Lessee's share of allowance

(4) For the purpose of clause 1 (2) (d), this section applies in lieu of section 65 of the *Income Tax Act* (Canada). 1977, c. 58, s. 8, Application R.S.C. 1952, c. 148 *part.*

18.—(1) A principal-business corporation may deduct, in computing its income for a taxation year, the lesser of, Exploration and development expenses of principal-business corporations

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year, to the extent that they were not deductible in computing income for a previous taxation year; and

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this subsection or section 17, minus the deductions allowed for the taxation year by sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act. 1977, c. 58, s. 8, *part.*; 1978, c. 14, s. 8 (1).

(2) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of, Expenses of other corporations

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year to the extent they were not deductible in computing its income for a previous taxation year; and

(b) of that aggregate, the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause (a), and

(ii) the aggregate of,

(A) such part of its income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells in Canada or to the production of minerals from mines in Canada,

(B) its income for the taxation year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in subclause 14 (3) (a) (ii) or clause 14 (3) (c) that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the taxation year by virtue of subsection 14 (3) in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 16 in respect of the property in computing its income for the taxation year,

if no deduction were allowed for the taxation year under this subsection, subsection (3) or section 17. 1977, c. 58, s. 8, *part*; 1978, c. 14, s. 8 (2).

(3) A corporation other than a principal-business corporation may deduct, in computing its income for a taxation year, the lesser of,

Ontario exploration and development expenses: corporation other than a principal-business corporation

(a) the aggregate of such of its Ontario exploration and development expenses as were incurred by it before the end of the taxation year to the extent that they were not deducted in computing its income for a previous year, minus that portion of the deduction allowed, if any, in computing its income for the taxation year under subsection (2) which is reasonably attributable to Ontario exploration and development expenses; and

(b) that portion of the amount determined under clause (a) equal to the amount of its income for the taxation year if no deductions were allowed under this section, minus,

(i) that portion of the deduction allowed for the taxation year under subsection (2) which is reasonably attributable to Ontario exploration and development expenses, and

(ii) the deduction allowed for the taxation year under sections 112 and 113 of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act.

R.S.C. 1952, c. 148

(4) Subsection 14 (3), section 16 and subsections (2) and (3) do not apply in computing the income for a taxation year under this Part of a corporation, other than a principal-business corporation, whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons.

Dealers

(5) There may be deducted in computing the income for a taxation year of a corporation that is a successor corporation or a second successor corporation, as the case may be, within the meaning of subsection 66 (6) or (7) of the *Income Tax Act* (Canada), the amount, if any, that would be deductible by it under either of those subsections on the basis that the reference in paragraph (b) of each of the said subsections,

Canadian exploration and development expenses deductible by successor corporation and second successor corporation

R.S.C. 1952, c. 148

(a) to "this section" is deemed to be a reference to this section of this Act;

(b) to section 65 is deemed to be a reference to section 17 of this Act;

(c) to subsection 66.1 (2) does not apply; and

- (d) to the *Income Tax Application Rules, 1971*, is deemed to be a reference to the *Corporations Tax Application Rules, 1972*.

Joint exploration corporation: renunciation of its exploration and development expenses in favour of shareholder corporation
R.S.C. 1952, c. 148

(6) The portion, if any, of its Canadian exploration and development expenses that a joint exploration corporation may renounce in favour of a shareholder corporation shall be determined in accordance with the rules provided in subsection 66 (10) of the *Income Tax Act* (Canada) and paragraphs (a) and (b) of the said subsection are applicable, except that for the purposes of this subsection,

- (a) the references in the said subsection to subsections (1) and (3) of that section shall be deemed to be references to subsections (1) and (2) of this section; and
- (b) the references in paragraph (b) of the said subsection to paragraph (1) (a) of that section shall be deemed to be a reference to clause (1) (a) of this section.

Control change

(7) Subsection 66 (11) of the *Income Tax Act* (Canada) is applicable for the purposes of this section, except that, in its application for the purposes of this section, the said subsection shall be read without the reference therein to "cumulative Canadian exploration expense, cumulative Canadian development expense and foreign exploration and development expenses".

Computation of exploration and development expenses

(8) In computing the Canadian exploration and development expenses and Ontario exploration and development expenses of a corporation,

- (a) there shall be deducted the aggregate of all amounts paid to it after 1971 and before the 25th day of May, 1976,
 - (i) under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program,
 - (ii) pursuant to any agreement entered into between the corporation and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development, or
 - (iii) under the *Mineral Exploration Assistance Program* (Ontario),

to the extent that the amounts have been expended by the corporation as or on account of Canadian exploration and development expenses or Ontario exploration and development expenses, as the case may be; and

- (b) there shall be included any amount, except an amount in respect of interest, paid by the corporation, after 1971 in respect of amounts paid to it before the 25th day of May, 1976, under the Regulations referred to in subclause (a) (i) to Her Majesty in right of Canada and under the *Mineral Exploration Assistance Program* (Ontario) to Her Majesty in right of Ontario.

(9) Except as otherwise provided in this section, where a corporation has incurred an outlay or expense in respect of which a deduction from income is authorized under more than one provision of this section, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction. Limitations

(10) Notwithstanding subsection (9), a corporation that is entitled to a deduction under both subsections (2) and (3) may, in addition to the deduction under subsection (2), deduct such additional amount as it may claim in respect of Ontario exploration and development expenses under subsection (3). Idem

(11) Except as expressly otherwise provided in this Act, where, as a result of a transaction occurring after the 6th day of May, 1974, an amount has become receivable by a corporation at a particular time in a taxation year and the consideration given by the corporation therefor was property (other than a property referred to in subsection 14 (3) or a share or interest therein or a right thereto) or services, the original cost of which to the corporation may reasonably be regarded as having been primarily Canadian exploration and development expenses of the corporation or would have been so regarded if they have been incurred by the corporation after 1971, there shall be included in its income for that taxation year the amount that became receivable by it at that time. Limitations of Canadian exploration and development expenses

(12) Where, pursuant to an agreement between a corporation and another person to unitize an oil or gas field in Canada, an amount has become receivable by the corporation at a particular time after the 6th day of May, 1974 from that other person in respect of Canadian exploration and development expenses incurred by the corporation, or Unitized oil or gas field in Canada

expenses that would have been Canadian exploration and development expenses if they had been incurred by it after 1971, in respect of that field or any part thereof, the following rules apply,

- (a) there shall, at that time, be included in computing the corporation's income for the taxation year the amount that became receivable by it; and
- (b) there shall, at that time, be included by the other person, where that person is a corporation, in its drilling or exploration expense the amount that became payable by that person.

Amount
deemed
deductible
under this
Subdivision

(13) For the purposes of section 9, any amount deductible under the *Corporations Tax Application Rules, 1972* in respect of this subsection shall be deemed to be deductible under this Subdivision. 1977, c. 58, s. 8, *part*.

Interpre-
tation
R.S.C. 1952,
c. 148

(14) In this section and in the provisions of the *Income Tax Act* (Canada) made applicable for the purposes of this section,

- (a) "agreed portion" has the meaning given to that expression by paragraph 66 (15) (a) of the *Income Tax Act* (Canada);
- (b) "Canadian exploration and development expenses" incurred by a corporation means,
 - (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the corporation after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,
 - (ii) any prospecting, exploration or development expense incurred by it after 1971 in searching for minerals in Canada,
 - (iii) notwithstanding paragraph 18 (1) (m) of the *Income Tax Act* (Canada), as that section applies to this Act by virtue of section 12 of this Act, the cost to the corporation of a Canadian resource property, but for greater certainty not including any payment made to any of the persons referred to in any of the subparagraphs (i) to (iii) of the said paragraph (m) for the preservation of a person's rights in respect of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired by the

corporation after 1971, and not including a payment to which the said paragraph (m) applied by virtue of subparagraph (v) thereof,

- (iv) the corporation's share of any of the expenses referred to in subclauses (i), (ii) and (iii) incurred after 1971 by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period the corporation was a member or partner thereof, and
- (v) any expenses referred to in subclauses (i), (ii) and (iii) incurred after 1971 pursuant to an agreement with another corporation under which the corporation incurred the expense solely in consideration for shares of the capital stock of the other corporation issued to it by the other corporation or any interest in such shares or right thereto,

but for greater certainty, does not include,

- (vi) any consideration given by the corporation for any share or any interest therein or right thereto, except as provided by subclause (v), or
- (vii) any expense described in subclause (v) incurred by another person to the extent that the expense was, by virtue of subclause (v), a Canadian exploration and development expense of that other person,

but no amount of assistance or benefit that a corporation has received or is entitled to receive after the 25th day of May, 1976 from a government, municipality or other public authority in respect of or related to its Canadian exploration and development expenses, whether as a grant, subsidy, forgivable loan, deduction from royalty or tax, investment allowance or any other form of assistance or benefit, shall reduce the amount of any of the expenses described in any of subclauses (i) to (v);

- (c) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas has the meaning given to that expression by paragraph 66 (15) (d) of the *Income Tax Act* (Canada); R.S.C. 1952, c. 148
- (d) "joint exploration corporation" has the meaning given to that expression by paragraph 66 (15) (g) of the *Income Tax Act* (Canada);

(e) "Ontario exploration and development expenses" incurred by a corporation means any expenses that would be Canadian exploration and development expenses incurred by the corporation if clause (b) of this subsection were read as if the references therein to,

(i) "in Canada" were references to "in Ontario",

(ii) "after 1971" were references to "after the 9th day of April, 1974", and

(iii) "Canadian" were references to "Ontario";

(f) "Ontario resource property" of a corporation means any property that would be a Canadian resource property of the corporation within the meaning of paragraph 66 (15) (c) of the *Income Tax Act* (Canada) if that paragraph were read as if the references therein to,

(i) "in Canada" were references to "in Ontario", and

(ii) "after 1971" were references to "after the 9th day of April, 1974";

(g) "principal-business corporation" has the meaning given to that expression by paragraph 66 (15) (h) of the *Income Tax Act* (Canada);

(h) "shareholder corporation" of a joint exploration corporation has the meaning given to that expression by paragraph 66 (15) (i) of the *Income Tax Act* (Canada), except that subparagraph (ii) thereof shall, in its application for the purposes of this section, be read without the reference therein to "a Canadian exploration expense or a Canadian development expense". 1977, c. 58, s. 8, *part*; 1978, c. 14, s. 8 (3).

Application

(15) For the purposes of clause 1 (2) (d), this section applies in lieu of sections 66, 66.1 and 66.2 of the *Income Tax Act* (Canada). 1977, c. 58, s. 8, *part*.

Shares taxed as inventory

19. Section 66.3 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as that section applies to corporations. 1977, c. 58, s. 8, *part*.

SUBDIVISION E—RULES RELATING TO COMPUTATION
OF INCOME

20.—(1) The rules provided in subdivision f of Division B of Part I of the *Income Tax Act* (Canada), relating to the computation of income are, in so far as the said rules apply to corporations, applicable in computing income for the purposes of this Act. R.S.C. 1952,
c. 148,
Part I (B) (f),
applicable

(2) In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances. 1977, c. 58, s. 8, *part*. General
limitation
re expenses

21.—(1) Section 245 of the *Income Tax Act* (Canada) is applicable in computing income for the purposes of this Act, except that, Artificial
transactions

(a) paragraph (2) (b) thereof is not applicable; and

(b) the reference therein to Part I of that Act shall be deemed to be reference to Part II of this Act.

(2) In computing the income of a corporation for a taxation year there shall be included an amount that is included in computing the income of the corporation under Part XVI of the *Income Tax Act* (Canada) pursuant to section 247 of that Act. 1977, c. 58, s. 8, *part*. Dividend
stripping

SUBDIVISION F—AMOUNTS NOT INCLUDED
IN COMPUTING INCOME

22. There shall not be included in computing the income of a corporation for a taxation year, Amounts not
included in
income:

(a) an amount paid to a corporation on account of a grant under the *Area Development Incentives Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada), the *Regional Development Incentives Act* (Canada), or the *Employment Support Act* (Canada); and federal
grants
1965, c. 12
(Can.)
R.S.C. 1970,
cc. I-10, R-3
1970-71-72,
c. 56 (Can.)

(b) an amount determined in accordance with the rules provided in paragraphs 81 (1) (b), (c), (l) and (m) of the *Income Tax Act* (Canada). 1977, c. 58, s. 8, *part*. other
amounts

SUBDIVISION G—CORPORATIONS RESIDENT IN CANADA
AND THEIR SHAREHOLDERS

R.S.C. 1952,
c. 148,
Part I (B) (h),
applicable

23.—(1) Except as hereinafter provided, the rules provided in subdivision h of Division B of Part I of the *Income Tax Act* (Canada) are applicable for the purposes of this Act.

Amalgamations
consideration
for resource
property
disposition

(2) In lieu of the rule provided in paragraph 87 (2) (p) of the *Income Tax Act* (Canada) with respect to amalgamations, the following rule is applicable for the purposes of this Act;

For the purpose of computing a deduction from the income of the new corporation for a taxation year under section 16, any amount that has been included in computing the income of a predecessor corporation for its last taxation year or a previous taxation year by virtue of clause 14 (3) (a) or (c), or subsection 18 (11) or (12), or by virtue of subsection 58 (15) or (16) of *The Corporations Tax Act* as it read in its application to the taxation years prior to 1972, shall be deemed to have been included in computing the income of the new corporation for a previous taxation year by virtue thereof.

R.S.C. 1952,
c. 148,
s. 87 (2) (z),
not applicable

(3) Paragraph 87 (2) (z) of the said Act is not applicable for the purposes of this Act.

R.S.C. 1952,
c. 148,
s. 88 (1) (e.2),
applicable

(4) Paragraph 88 (1) (e.2) of the *Income Tax Act* (Canada) shall, in its application for the purposes of this Act, be read without reference therein to paragraph 87 (2) (z) of the said Act, and as though the reference therein to paragraph 87 (2) (p) were a reference to subsection (2) of this section. 1977, c. 58, s. 8, *part*.

“Minister”
deemed to
be Minister
of National
Revenue

(5) In the application of the said subdivision h for the purposes of this Act, the references in section 84.2, paragraphs 89 (1) (g) and (k) and subsection 89 (3) of the *Income Tax Act* (Canada), to “Minister” shall be deemed to be references to the Minister of National Revenue for Canada. 1977, c. 58, s. 8, *part*.

SUBDIVISION H—SHAREHOLDERS OF CORPORATIONS
NOT RESIDENT IN CANADA

R.S.C. 1952,
c. 148,
Part I (B) (i),
applicable

24.—(1) The provisions of subdivision i of Division B of Part I of the *Income Tax Act* (Canada) are applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

Idem

(2) In the application of the said subdivision i for the purposes of this Act, the references therein to “Minister”

shall be deemed to be references to the Minister of National Revenue for Canada. 1977, c. 58, s. 8, *part*.

SUBDIVISION I—PARTNERSHIPS AND THEIR MEMBERS

25.—(1) Except as hereinafter provided, the rules provided in subdivision j of Division B of Part I of the *Income Tax Act* (Canada) with respect to partnerships and their members are applicable for the purposes of this Act in so far as the said rules apply to corporations. R.S.C. 1952, c. 148, Part I (B) (j), applicable

(2) Subsection 96 (1.6) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act. 1977, c. 58, s. 8, *part*. Exception

(3) For the purposes of this Act, paragraph 96 (1) (d) of the *Income Tax Act* (Canada) shall apply as though the paragraph read as follows: Exception

- (d) each income or loss of the partnership for a taxation year were computed as if no deduction were permitted by subsection 17 (1), section 18 or the provisions of *The Corporations Tax Application Rules, 1972* relating to exploration and development expenses. 1978, c. 14, s. 9.

(4) Where any activity in Ontario of a partnership in a taxation year is such that, if it were a corporation, it would be subject to subsection 2 (2) or (3), as the case may be, each corporation that is deemed to be a member of the partnership shall be deemed to be subject to subsection 2 (2) or (3), as the case may be, for that taxation year. 1977, c. 58, s. 8, *part*. Members of partnerships deemed to have permanent establishment in Ontario

SUBDIVISION J—BENEFICIARIES OF TRUSTS

26.—(1) In determining for the purposes of this Act the income of a corporation that is a beneficiary of a trust, subdivision k of Division B of Part I of the *Income Tax Act* (Canada) is applicable in so far as the said subdivision applies to corporations that are beneficiaries of trusts, and any amount included in or deducted from the income of a corporation for a taxation year by virtue of that subdivision shall be included or deducted, as the case may be, in computing its income for the taxation year for the purposes of this Act. R.S.C. 1952, c. 148, Part I (B) (k), applicable

(2) In the application of the said subdivision for the purposes of this Act, Idem

- (a) clause 1 (2) (d) of this Act does not apply; and
- (b) the references therein to “Minister” shall be deemed to be references to the Minister of National Revenue for Canada. 1977, c. 58, s. 8, *part*.

DIVISION C—COMPUTATION OF TAXABLE INCOME

R.S.C. 1952,
c. 148,
Part I (C),
applicable

27.—(1) Except as hereinafter in this Division provided, in computing the taxable income of a corporation for a taxation year, Division C of Part I of the *Income Tax Act* (Canada) is applicable for the purposes of this Act in so far as the said Division applies to deductions permitted to corporations.

Receipts;
application of
R.S.C. 1952,
c. 148,
s. 110 (1)

(2) In the application of paragraphs 110 (1) (a), (b) and (b.1) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “receipts” shall be deemed to mean receipts or photostatic reproductions thereof.

Interpre-
tation

(3) For the purposes of this Act, “registered amateur athletic association” and “registered charity” mean respectively an amateur athletic association or a charity that, unless otherwise designated by the Minister, has been registered by the Minister of National Revenue for Canada pursuant to subsection 110 (8) of the *Income Tax Act* (Canada) and, unless otherwise designated by the Minister, whose registration has not been revoked.

Losses;
application of
R.S.C. 1952,
c. 148,
s. 111 (3)

(4) In the application, for the purposes of this Act, of subsection 111 (3) of the *Income Tax Act* (Canada), paragraph (a) thereof shall be read as if subparagraph (ii) thereof were deleted. 1977, c. 58, s. 8, *part*.

Election
contributions

28.—(1) In computing a corporation’s taxable income for a taxation year, there may be deducted the aggregate of amounts (the aggregate of which amounts is hereafter in this subsection referred to as “the amount contributed”) that are contributions for the purposes of the *Election Finances Reform Act* and that are contributed in the taxation year, and in any previous taxation year ending after the 12th day of February, 1975 to the extent that such contributions have not already been deducted, by the corporation to registered candidates at an election of a member or members to serve in the Assembly, to registered constituency associations or to registered parties, provided that,

R.S.O. 1980,
c. 134

(a) subject to subsection (3), such deduction shall not exceed the least of,

(i) the amount contributed,

(ii) its taxable income computed without reference to this section, and

(iii) \$4,000; and

(b) payment of each amount that is included in the amount contributed is proven by filing with the Minister receipts that are signed by a recorded agent of the registered candidate, registered constituency association or registered party, as the case may be, and that contain the information prescribed to be shown on such receipts.

(2) In this section,

Interpre-
tation

(a) "recorded agent" means a person on record with the Commission on Election Contributions and Expenses as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under the *Election Finances Reform Act*;

R.S.O. 1980,
c. 134

(b) "registered candidate", with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Election Contributions and Expenses and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;

(c) "registered constituency association" means a registered constituency association within the meaning given to that expression by the *Election Finances Reform Act*;

(d) "registered party" means a registered party within the meaning given to that expression by the *Election Finances Reform Act*.

(3) In respect of a corporation to which section 31 is applicable, the amount deductible under clause (1) (a) is the aggregate of,

Corporations
to which
s. 31 is
applicable

- (a) the amount which would otherwise be deducted under clause (1) (a);
- (b) that proportion of the amount determined under clause (a) that,
 - (i) the taxable income of the corporation that is earned in jurisdictions other than Ontario (as computed for the purposes of section 31 and without reference to this section),

is to,

- (ii) the amount by which the taxable income of the corporation exceeds the amount referred to in subclause (i). 1977, c. 58, s. 8, *part*.

DIVISION D—TAXABLE INCOME EARNED IN CANADA BY NON-RESIDENTS

Non-
residents'
taxable
income
earned in
Canada
R.S.C. 1952,
c. 148

29. The taxable income earned in Canada for a taxation year of a corporation to which subsection 2 (2) or (3) applies shall be computed in accordance with the rules provided in section 115 of the *Income Tax Act* (Canada) in so far as the said rules apply to corporations, except that for the purposes of this Act,

- (a) there shall be included income from property that is real property situated in Canada or any interest therein, that arose from the sale or rental thereof or both; and
- (b) the amount of the income included in accordance with the said rules and clause (a) shall be determined in accordance with this Act. 1977, c. 58, s. 8, *part*.

DIVISION E—COMPUTATION OF INCOME TAX PAYABLE

Rate

30. The tax payable by a corporation under this part upon its taxable income or taxable income earned in Canada, as the case may be, in this section referred to as the "amount taxable", is 14 per cent of the amount taxable. 1977, c. 58, s. 8, *part*; 1979, c. 28, s. 7.

Deduction
from income
tax

31. There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an

amount equal to 14 per cent of that portion of its taxable income or taxable income earned in Canada, as the case may be, which is earned in the taxation year in each jurisdiction other than Ontario, determined under rules prescribed by the regulations. 1977, c. 58, s. 8, *part*; 1979, c. 28, s. 8.

32.—(1) Where a corporation has a permanent establish- Foreign tax deduction
ment in Ontario, and,

(a) the corporation has included in computing its income for the taxation year,

(i) income that was derived from sources within a jurisdiction outside Canada in the form of dividends, interest, rents or royalties received in the year,

(ii) income that is deemed to have been received in the form of dividends and interest from a jurisdiction outside Canada by virtue of the provisions of subsection 148 (5) of the *Income Tax Act* (Canada), or R.S.C. 1952, c. 148

(iii) the amount by which,

(A) the aggregate of that part of the corporation's taxable capital gains for the taxation year from the disposition of property as may reasonably be considered to be income from a source within a jurisdiction outside Canada,

exceeds,

(B) the aggregate of such of the corporation's allowable capital losses for the year from the disposition of property as may reasonably be considered to be a loss from a source within that jurisdiction outside Canada,

hereinafter in this section referred to as "foreign investment income"; or

(b) the corporation, having included in its income for the taxation year foreign investment income from sources within a jurisdiction outside Canada, also

included income from a business carried on by it in that jurisdiction, hereinafter in this section referred to as "foreign business income",

and where,

R.S.C. 1952,
c. 148

- (c) for the purposes of subsection 126 (2) of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to a jurisdiction outside Ontario in accordance with the regulations made under section 31 such foreign investment income has been excluded from the calculation of gross revenue or any part thereof; and
- (d) the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of subsection 148 (5) of the *Income Tax Act* (Canada),

the corporation may deduct from the tax otherwise payable under this Part for the taxation year an amount equal to the lesser of,

- (e) 14 per cent of that part of such foreign investment income that is income that is included in that portion of taxable income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 31; and
- (f) the deficiency, if any, between,
 - (i) that portion of the income or profits tax paid for the taxation year by the corporation to the jurisdiction outside Canada in respect of the foreign investment income referred to in clause (e), that was not deducted, by virtue of subsection 20 (12) of the *Income Tax Act* (Canada) for the purposes of that Act or for the purposes of this Act by virtue of that subsection as made applicable by section 12 of this Act, in

computing the corporation's income for the year,
and

- (ii) the foreign tax credit allowed for the taxation year in respect of such foreign investment income under subsection 126 (1) of the *Income Tax Act* (Canada). 1977, c. 58, s. 8, *part*; 1979, c. 28, s. 9. R.S.C. 1952,
c. 148

(2) For greater certainty, where the income of a cor- Idem
poration for a taxation year is in whole or in part from
sources in more than one jurisdiction outside Canada, sub-
section (1) shall be read as providing for a separate deduction
in respect of each jurisdiction outside Canada. 1977, c. 58,
s. 8, *part*.

33.—(1) There may be deducted from the tax otherwise Small
business
incentives
payable under this Part for a taxation year by a corporation
that, with respect to that taxation year, is eligible for a
deduction under section 125 of the *Income Tax Act* (Canada),
an amount equal to 4 per cent of the amount determined under
subsection (2). 1977, c. 58, s. 8, *part*; 1979, c. 28, s. 10 (1).

(2) For the purposes of subsection (1), the amount determined Idem
under this subsection is,

- (a) with respect to a corporation to which subsection 125 (1) of the *Income Tax Act* (Canada) applies, that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) for the taxation year, not exceeding \$150,000; and
- (b) with respect to a corporation to which subsection 125 (1.1) of the *Income Tax Act* (Canada) applies, that proportion of the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) for the taxation year, not exceeding \$150,000,

that,

- (c) the amount of that portion of its taxable income for the taxation year that is deemed to have been earned in Ontario, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada),

bears to,

- (d) the total amount of the portions of its taxable income for the taxation year that are deemed to have been earned in

R.S.C. 1952,
c. 148

the provinces of Canada, measured in accordance with paragraph 124 (4) (a) of the *Income Tax Act* (Canada). 1980, c. 23, s. 3.

Transitional
rule; alter-
native
deduction

(3) In lieu of the deduction permitted under subsection (1), for the taxation year that ends after the 6th day of April, 1976, and that includes that day, there may be deducted from the tax otherwise payable under this Part for that taxation year the amount that would otherwise be deductible under section 106a of *The Corporations Tax Act, 1972*, being chapter 143, as that section stood on the 6th day of April, 1976, determined on the assumption that that section applied to the whole of that taxation year.

Transitional
rule;
additional
deduction

(4) Where a corporation has made a deduction under subsection (1) for the taxation year that ends after the 6th day of April, 1976, and that includes that day, in addition to the amount deducted under subsection (1) there may be deducted from the tax otherwise payable under this Part for that taxation year the lesser of,

(a) 3 per cent of the amount determined under subsection (2) for that taxation year; and

(b) the amount that would have been deductible under subsection 106a (3) of *The Corporations Tax Act, 1972*, being chapter 143, as that section stood on the 6th day of April, 1976 had that section applied to that taxation year. 1977, c. 58, s. 8, *part*.

Interpre-
tation

(5) In this section, "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 31 and 32, but before making any deduction under this section or section 34. 1979, c. 28, s. 10 (2).

Tax credit
for eligible
profits

34.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation an amount equal to 1 per cent of that proportion of the amount determined under subsection (2) that,

(a) that portion of its taxable income or taxable income earned in Canada, as the case may be, for the year remaining after deducting therefrom that portion thereof which is earned in the taxation year in jurisdictions other than Ontario as determined for the purpose of section 31,

is of

- (b) the aggregate of the portions of its taxable income or taxable income earned in Canada, as the case may be, for the taxation year which were earned in the provinces or territories of Canada as determined for the purpose of section 31.

(2) For the purpose of subsection (1), the amount determined under this subsection is the lesser of, Idem

- (a) the amount, if any, by which the corporation's eligible Canadian profits for the year exceeds the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) of the *Income Tax Act* (Canada) in respect of the corporation for the year; and R.S.C. 1952, c. 148

- (b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of,

- (i) the least of the amounts determined under paragraphs 125 (1) (a) (b), (c) and (d) of the *Income Tax Act* (Canada) in respect of the corporation for the year,
- (ii) the amount, if any, of that portion of the corporation's taxable income for the year which is earned in jurisdictions outside Canada as determined for the purpose of section 31, and
- (iii) the amount, if any, by which the aggregate of the corporation's Canadian investment income for the year and its foreign investment income for the year, as defined in subsection 129 (4) of the *Income Tax Act* (Canada), exceeds the amount, if any, deducted under paragraph 111 (1) (b) of that Act as made applicable by section 27, from the corporation's income for the year.

(3) For the purposes of subsection (2), "eligible Canadian profits" of a corporation for a taxation year means such portion of the aggregate of all amounts each of which is the income of the corporation for the year from manufacturing and processing, mining, farming, logging or fishing carried on in Canada as is determined under rules prescribed for that purpose by the regulations. 1979, c. 28, s. 11. Interpretation
eligible
Canadian
profits

Small
business
tax credit

R. S. C. 1952,
c. 148

35.—(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that is in the taxation year eligible for the deduction under subsection 125 (1) of the *Income Tax Act* (Canada) an amount equal to 20 per cent of the cost to the corporation of depreciable property purchased by it, from a person with whom it was dealing at arm's length, in the taxation year and after the 22nd day of April, 1980 and before the 23rd day of April, 1982, and used by it in Ontario for the purpose of earning income from a business, other than income from the leasing or rental of such depreciable property, but not exceeding the lesser of,

(a) the greater of,

(i) 20 per cent of the tax payable (after the deduction under section 33 calculated on that portion of the income eligible for the deduction under subsection 125 (1) of the *Income Tax Act* (Canada) as determined for the purposes of section 33, and

(ii) \$500; and

(b) the tax otherwise payable under this Part for the taxation year.

Interpre-
tation

(2) In this section,

(a) "eligible for a deduction under subsection 125 (1) of the *Income Tax Act* (Canada)" means otherwise qualified for a deduction under subsection 125 (1) of the *Income Tax Act* (Canada), notwithstanding that no deduction was allowed under that subsection for the taxation year by reason only that the amount determined under paragraph (a) or (b) of that subsection was nil for that taxation year;

(b) "tax otherwise payable under this Part" means the tax for the taxation year otherwise payable by the corporation under this Part after making any deduction applicable under sections 31, 32, 33 and 34.

Short
taxation
year

(3) Where the taxation year of a corporation is less than eleven months, the amounts determined under subclause (1) (a) (i) and clause (1) (b) shall be that proportion of the amounts otherwise determined under the said subclause (a) (i) and clause (b) that the number of days in the taxation year is of 365 days.

Rules to be
prescribed

(4) The Lieutenant Governor in Council may prescribe rules to determine the depreciable property, the purchases thereof, the costs thereof and the uses thereof that are eligible for the purposes of subsection (1).

(5) For the taxation year that ends after the 22nd day of April, 1982 and that includes that day the amounts determined under subclause (1) (a) (i) and clause (1) (b) shall be that proportion of such amounts as otherwise determined that the number of days of the taxation year prior to the 23rd day of April, 1982 bears to the total number of days of that taxation year. 1980, c. 23, s. 4.

Transitional
rule

36. Where, under a contract, will or trust, made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

Tax on tax
R.S.C. 1952,
c. 148

(a) the tax payable by the corporation under Part II of this Act for the taxation year in or in respect of which such payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the taxation year plus,

(i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,

(A) the payment, and

(B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) would be increased by including the payment in computing its income, and

(ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the taxation year, the amount fixed by subclause (i) or the additional payment, whichever is the lesser; and

(b) if the person required to make the payment is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a taxation year, such corporation is not entitled to deduct the amount determined under subclause (a) (ii). 1977, c. 58, s. 8, *part.*

DIVISION F—SPECIAL RULES APPLICABLE IN
CERTAIN CIRCUMSTANCES

Where
corporation
bankrupt

37. Where a corporation has become bankrupt, as defined in subsection 128 (3) of the *Income Tax Act* (Canada), the rules provided in the said section 128 are applicable for the purposes of this Act. 1977, c. 58, s. 8, *part.*

Investment Corporations

Application
of s. 40

38.—(1) Where a corporation is, throughout a taxation year, an investment corporation, other than a mutual fund corporation, subsections 131 (1), (2) and (3) of the *Income Tax Act* (Canada) as made applicable by section 40 of this Act are applicable in respect of the corporation for the taxation year as if,

- (a) the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation; and
- (b) its capital gains redemption for that and all previous taxation years ending after 1971, throughout which it would, but for the assumption made by clause (a), not have been a mutual fund corporation, were nil.

Idem

(2) Subsection 40 (6) applies to a corporation to which this section applies. 1977, c. 58, s. 8, *part.*

Mortgage Investment Corporations

R.S.C. 1952,
c. 148, s. 130.1,
applicable

39. Where a corporation was, throughout a taxation year, a mortgage investment corporation, as defined in subsection 130.1 (6) of the *Income Tax Act* (Canada), the rules provided in the said section 130.1 are applicable in computing its income for the taxation year for the purposes of this Act. 1977, c. 58, s. 8, *part.*

Mutual Fund Corporations

R.S.C. 1952,
c. 148,
s. 131,
applicable

40.—(1) Except as hereinafter provided, where a corporation is a mutual fund corporation, section 131 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act. 1977, c. 58, s. 8, *part.*

Idem

(2) In the application of subparagraph 131 (2) (a) (i) of the said Act for the purposes of this Act, the percentage referred to therein shall be read as “7 per cent”. 1979, c. 28, s. 12, *part.*

Idem

(3) In the application of subsection 131 (3) of the said Act for the purposes of this Act, the reference therein to “this Act” shall be deemed to be a reference to this Act. 1977, c. 58, s. 8, *part.*

(4) In the application of clause 131 (6) (a) (i) (A) and clause 131 (6) (b) (ii) (C) of the said Act, for the purposes of this Act, the multiplication factor referred to therein shall be read as "14 $\frac{2}{7}$ times". Idem

(5) In the application of paragraph 131 (6) (d) of the said Act for the purposes of this Act, subparagraph (i) thereof shall be read without reference to clause (C) thereof, and the percentage referred to in clauses (A) and (B) of the said subparagraph shall be read as "14 per cent". 1979, c. 28, s. 12, *part*. Idem

(6) Where a corporation had a permanent establishment in a jurisdiction outside Ontario during a taxation year in respect of which this section applies, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the taxable income of the corporation that is deemed to have been earned in jurisdictions other than Ontario for the taxation year for the purposes of section 31 bears to its total taxable income or, where its taxable income is nil, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the corporation's taxable paid-up capital that is deemed to have been used in jurisdictions outside Ontario for that taxation year for the purposes of section 59 bears to its total taxable paid-up capital. Apportionment of capital gains refund

(7) Subsections 131 (5) and (9) of the *Income Tax Act* (Canada) and paragraph (6) (c) of the said section are not applicable for the purposes of this Act. 1977, c. 58, s. 8, *part*. Exceptions R.S.C. 1952, c. 148

Non-Resident-Owned Investment Corporations

41.—(1) The income of a non-resident-owned investment corporation for a taxation year shall be computed as if its only income for the year was the amount, if any, by which its taxable capital gains for the year exceeds its allowable capital losses for the year, from dispositions of taxable Canadian property or property that would be taxable Canadian property if at no time in the year the corporation had been resident in Canada. Computation of income

(2) The taxable income of a non-resident-owned investment corporation for a taxation year is its income determined under subsection (1), minus its net capital losses for taxation years preceding and the taxation year immediately following the taxation year, as determined in accordance with section 111 of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act. Computation of taxable income

R.S.C. 1952,
c. 148,
s. 133 (5, 7.1, 7.2),
applicable

(3) The provisions of subsection 133 (5), (7.1) and (7.2) of the *Income Tax Act* (Canada) are applicable for the purposes of this section. 1977, c. 58, s. 8, *part*.

Patronage Dividends

R.S.C. 1952,
c. 148,
s. 135,
applicable

42.—(1) Except as hereinafter provided, the provisions of section 135 of the *Income Tax Act* (Canada) with respect to the deduction from income of payments made pursuant to allocations in proportion to patronage and the inclusion in income of payments received pursuant to allocations in proportion to patronage are, in so far as they apply to corporations, applicable in computing income for the purposes of this Act.

Non-
application
of s. 135 (3)

(2) Subsection 135 (3) of the said Act is not applicable for the purposes of this Act. 1977, c. 58, s. 8, *part*.

Credit Unions

R.S.C. 1952,
c. 148,
s. 137,
applicable

43.—(1) Except as hereinafter provided, the provisions of section 137 of the *Income Tax Act* (Canada) are applicable in computing the income of credit unions for the purposes of this Act.

Exceptions

(2) Subsections 137 (3) and (4) and paragraph 137 (6) (c) of the said Act are not applicable for the purposes of this Act. 1977, c. 58, s. 8, *part*.

Deposit Insurance Corporations

R.S.C. 1952,
c. 148,
s. 137.1,
applicable

44.—(1) Except as hereinafter provided, the provisions of section 137.1 of the *Income Tax Act* (Canada) are applicable in computing the income of deposit insurance corporations and member institutions thereof for the purposes of this Act.

Idem

(2) In the application of subsection 137.1 (1) of the said Act for the purposes of this Act, the reference in paragraph (a) thereof to "this Part" shall be deemed to be a reference to Part II of this Act.

Exception

(3) Subsection 137.1 (9) of the said Act is not applicable for the purposes of this Act. 1977, c. 58, s. 8, *part*.

Insurance Corporations

Calculation
of taxable
income

45.—(1) Notwithstanding any other provision of this Act, except as hereinafter provided, the taxable incomes

of insurance corporations that carry on an insurance business in Ontario shall, for the purposes of this Act, be computed in accordance with the rules provided in sections 138, 138.1, 140, 141, 141.1 and 142 of the *Income Tax Act* (Canada). R.S.C. 1952, c. 148
1977, c. 58, s. 8, *part*; 1978, c. 14, s. 10.

(2) In the application of subsection 138 (1) of the said Act for the purposes of this Act, the reference in paragraph (d) thereof to "this Part" shall be deemed to be a reference to Part II of this Act. Interpretation
1977, c. 58, s. 8, *part*.

46. The rules provided in section 139 of the *Income Tax Act* (Canada), with respect to the conversion of a provincially incorporated life insurance corporation into a mutual corporation, Application of rules under R.S.C. 1952, c. 148
are applicable for the purposes of this Act. 1977, c. 58, s. 8, *part*.

47. Section 138.1 and subsection 142 (2) of the *Income Tax Act* (Canada) are, in so far as they apply to corporations, applicable for the purposes of this Act. Amounts to be included in computing policy-holder's income
1978, c. 14, s. 11, *part*.

Communal Organizations

48. Section 143 of the *Income Tax Act* (Canada) is, in so far as it applies to corporations, applicable for the purposes of this Act. Application of R.S.C. 1952, c. 148, s. 143
1978, c. 14, s. 11, *part*.

DIVISION G—EXEMPTIONS

49.—(1) Except as hereinafter provided, no tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was, Exemptions

(a) a corporation referred to in paragraph 149 (1) (c), (d), (e), (f), (h.1), (i), (j), (k), (m), (n) or (o) of the *Income Tax Act* (Canada); Charities and other corporations

(b) a club, society or association that, in the opinion of the Minister, was not a charity within the meaning given to that expression by subsection 149.1 (1) of the *Income Tax Act* (Canada) and that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, which has not in the taxation year or in any previous taxation year distributed any part of its income to any proprietor, member or shareholder thereof, or appropriated any of its funds or property in Non-profit organizations

any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, unless the proprietor, member or shareholder was a club, society or association, the primary purpose and function of which was the promotion of amateur athletics in Canada; or

Farmers' and
fishermen's
insurers

- (c) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50 per cent of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen.

Tax payable
where distri-
bution made
to members or
shareholders

- (2) Where a corporation described in clause (1) (b),

- (a) has in the taxation year distributed any part of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof, such corporation shall be liable to the taxes imposed under this Act for the taxation year in which the distribution is made and for subsequent taxation years, and in computing its income for the taxation year in which the distribution is made, it shall include the aggregate of its income of all previous taxation years; or
- (b) has, after 1971, distributed any of its income or distributed or otherwise appropriated any of its funds or property in any manner whatever to or for the benefit of any proprietor, member or shareholder thereof on the winding up or discontinuance of its business, the corporation shall be deemed to have received income in that taxation year equal to the amount, if any, by which the amount of the funds and the value of the property distributed or appropriated, as the case may be, exceeds the aggregate of,
 - (i) amounts paid in by proprietors, members or shareholders on account of capital, and
 - (ii) that part of the corporation's surplus that is attributed to income that was exempt under this section other than taxable capital gains,

and the corporation shall be liable for the taxes imposed under this Act for the taxation year in which the distribution is made.

(3) For the purposes of clause (1) (b), in computing the part, if any, of any income that was distributed or otherwise appropriated for the benefit of any person, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein. Income not to include taxable capital gains

(4) The rules provided in subsections 149 (2), (3), (4), (6), (8), (9) and (10) of the *Income Tax Act* (Canada) are applicable for the purposes of this section. Application of rules under R.S.C. 1952, c. 148

(5) In the application of subsection 149 (2) of the *Income Tax Act* (Canada) for the purposes of this Act, the said subsection shall be read without the reference therein to paragraph (l). 1977, c. 58, s. 8, *part*. Idem

PART III

DIVISION A—LIABILITY FOR CAPITAL TAX

50. Except as otherwise provided in this Part, every corporation that is liable to the taxes imposed under this Act shall pay a capital tax as hereinafter required, Liability for capital tax

(a) in the case of a corporation to which subsection 2 (1) applies, calculated upon its taxable paid-up capital determined in accordance with Division B of this Part; and

(b) in the case of a corporation to which clause 2 (2) (a) or (b) or 2 (3) (a) or (b) applies, calculated upon its taxable paid-up capital employed in Canada determined in accordance with Division C of this Part. 1972, c. 143, s. 123; 1973, c. 42, s. 10.

51. Except as provided in section 52, the taxable paid-up capital of a corporation shall be measured as at the close of the taxation year for which the tax imposed by section 50 is levied and is its taxable paid-up capital determined under Division B of this Part. 1972, c. 143, s. 124; 1977, c. 58, s. 26. Taxable paid-up capital

52. Notwithstanding section 51, the taxable paid-up capital of a corporation that is liable to the taxes imposed under this Act by virtue of clause 2 (2) (a) or (b) or 2 (3) (a) or (b), referred to in this Idem

Part as “taxable paid-up capital employed in Canada”, shall be measured as at the close of the taxation year for which the tax imposed by section 50 is levied and is its taxable paid-up capital employed in Canada determined under Division C of this Part. 1972, c. 143, s. 125; 1977, c. 58, s. 26.

DIVISION B—COMPUTATION OF TAXABLE PAID-UP CAPITAL

World
paid-up
capital

53.—(1) The paid-up capital of a corporation for a taxation year is its paid-up capital as it stood at the close of the taxation year and includes,

- (a) the paid-up capital stock of the corporation;
- (b) its earned, capital and any other surplus;
- (c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a deduction under the provisions of Part II, except that the reserves the creation of which is allowed as a deduction under the following provisions of Part II shall be included in paid-up capital,

R.S.C. 1952.
c. 148

- (i) paragraph 20 (1) (n) of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 12 (1) and (8) of this Act,
- (ii) subparagraph 40 (1) (a) (iii) of the *Income Tax Act* (Canada) as that subparagraph applies by virtue of subsection 13 (1) of this Act, and
- (iii) subsection 16 (1);
- (d) all sums or credits advanced or loaned to the corporation by its shareholders directly or indirectly or by any person related to any of its shareholders or by any other corporation; and
- (e) all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property of the corporation or any of it is subject. 1972, c. 143, s. 126; 1977, c. 58, ss. 9 (2), 26; 1979, c. 28, s. 13 (1).

(2) Notwithstanding subsection (1), the taxable paid-up capital of a bank for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

Taxable
paid-up
capital
of banks

- (a) its paid-up capital stock;
- (b) its rest account and all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and
- (c) its undivided profits. 1973, c. 42, s. 11 (2); 1977, c. 16, s. 3; 1977, c. 58, s. 26.

(3) Notwithstanding subsection (1), the taxable paid-up capital of a corporation registered under the *Loan and Trust Corporations Act* for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

Taxable
paid-up
capital of
loan and
trust cor-
porations
R.S.O. 1980,
c. 249

- (a) its paid-up capital stock;
- (b) its earned, capital and any other surplus; and
- (c) all its reserves, whether created from income or otherwise, except any reserve, the creation of which is allowed as a charge against income under the provisions of Part II. 1978, c. 14, s. 12.

(4) For the purpose of subsection (1), the paid-up capital of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the following rules:

Interpre-
tation

- (a) determine the paid-up capital of the partnership as if it were a corporation;
- (b) allocate the paid-up capital of the partnership as determined under clause (a) to each partner thereof in the same proportion as the share of the profits to which the partner is entitled under the partnership agreement;
- (c) where a general partner of a limited partnership is a corporation, and where,
 - (i) an individual who is a limited partner thereof or a member of his family is a shareholder of or is related to the general partner, or

- (ii) a trust, the beneficiaries of which are related to any person mentioned in subclause (i), is a limited partner thereof,

the amount allocated to such limited partner under clause (b) shall be added to the paid-up capital of the general partner otherwise allocated to it under clause (b); and

- (d) where two or more general partners of a limited partnership are corporations and where a limited partner referred to in clause (c) is a shareholder of or is related to two or more of such general partners the amount allocated to such limited partner under clause (b) shall be apportioned and added to the paid-up capital of each general partner of which the limited partner is a shareholder or to which he is related in the same proportion that the share of the profits of the limited partnership of that general partner is to the total share of the profits of the limited partnership of all of the general partners of which the limited partner is a shareholder or to which he is related. 1979, c. 28, s. 13 (2).

Deductions
from paid-up
capital

54.—(1) For the purpose of computing the taxable paid-up capital of a corporation for a taxation year, there may be deducted from its paid-up capital as at the close of the taxation year such of the following amounts as are applicable,

Goodwill

- (a) the amount of the goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Minister has no value, but this deduction applies to no more than 50 per cent of the book value of such goodwill or other intangible thing;

Discount
on shares

- (b) the amount of the discount on the issue or sale of the shares of the corporation;

Investments

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses (a), (b) and (d) which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total of the assets of the corporation remaining after the deductions of the amounts provided by clauses (a), (b) and (d), but,

- (i) the deduction under this clause shall in no case exceed the cost of the investments in respect of which the deduction is claimed,
- (ii) amounts of cash on deposit with any corporation doing the business of a savings bank are deemed not to be loans and advances to other corporations, and
- (iii) amounts due by a corporation with its head office outside Canada to a related corporation that is taxable under this Part are deemed not to be loans and advances to other corporations unless such amounts have been outstanding for 120 days or more prior to the end of the taxation year of the related corporation;
- (d) the amount of Canadian exploration and development expenses and the Ontario exploration and development expenses incurred by the corporation in searching for minerals in Canada and that are deductible under section 18 of the Act or section 29, 30 or 34 of *The Corporations Tax Application Rules, 1972*, to the extent that such expenses have not been deducted by the corporation under those sections for the taxation year or for any prior taxation year. 1972, c. 143, s. 127 (1); 1974, c. 75, s. 9 (1); 1976, c. 32, s. 17 (2); 1977, c. 58, ss. 10 (1, 3), 26; 1980, c. 23, s. 5.

Deferred Canadian and Ontario mining exploration and development expenses

(2) For the purposes of clause (1) (d), “minerals” does not include petroleum, natural gas or related hydrocarbons, bituminous sands, oil sands or oil shale. 1976, c. 32, s. 17 (3).

Interpretation

(3) For the purpose of this Part, “any other surplus”, “total assets” and “cost of investments” includes any amount,

Interpretation

- (a) by which any asset of a corporation is carried in its books of account or on its balance sheet in excess of the cost thereof;
- (b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part II,

and excludes any amount,

- (c) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except,

R.S.C. 1952,
c. 148

(i) paragraph 20 (1) (*n*) of the *Income Tax Act* (Canada) as that paragraph applies by virtue of subsections 12 (1) and (8) of this Act,

(ii) subparagraph 40 (1) (*a*) (iii) of the *Income Tax Act* (Canada) as that subparagraph applies by virtue of subsection 13 (1) of this Act, and

(iii) subsection 16 (1). 1972, c. 143, s. 127 (2); 1974, c. 75, s. 9 (2); 1979, c. 28, s. 14 (2).

Exception

(4) Subsections (1) and (3) do not apply to any corporation to which subsection 53 (2) or (3) applies. 1978, c. 14, s. 13.

Artificial
transaction

(5) in computing taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, no reduction may be made with respect to any transaction that, if permitted, would unduly or artificially reduce the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be. 1972, c. 143, s. 127 (3).

DIVISION C—COMPUTATION OF TAXABLE PAID-UP CAPITAL EMPLOYED IN CANADA OF NON-RESIDENT

Paid-up
capital
employed
in Canada
of non-
resident

55.—(1) Notwithstanding section 53, the paid-up capital employed in Canada of a corporation that is liable to the taxes imposed under this Act by virtue of clause 2 (2) (*a*) or (*b*) or 2 (3) (*a*) or (*b*), shall be deemed to be either,

(*a*) the amount of which its taxable income earned in Canada determined for the purposes of this Act would be 8 per cent; or

(*b*) the amount by which,

(i) the amount of the total assets of the corporation in Canada exceeds,

(ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada, but excluding therefrom,

(A) all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself

or by its shareholders directly or indirectly or by any person related to any of its shareholders or by any other corporation, and

- (B) all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property in Canada or any of it is subject,

whichever is greater and in such case, this section shall apply as though,

- (c) the corporation had no permanent establishment outside Canada;
- (d) the paid-up capital employed in Canada as so determined were the total paid-up capital of the corporation; and
- (e) the taxable paid-up capital employed in Canada were allocated among the provinces and territories of Canada as prescribed by the regulations. 1972, c. 143, s. 128; 1977, c. 58, s. 11.

(2) Subsection (1) does not apply where the business of the corporation was carried on entirely in Canada, and in any such case, the corporation's taxable paid-up capital employed in Canada shall be determined in accordance with the provisions of Division B of this Part. 1973, c. 42, s. 13.

(3) For the purpose of subsection (1), the paid-up capital of the corporate partners of a partnership shall, with respect to their interests in the partnership, be determined in accordance with the rules provided in clauses 53 (4) (a), (b), (c) and (d). 1979, c. 28, s. 15.

56. The taxable paid-up capital employed in Canada of a corporation to which this Division applies is its paid-up capital employed in Canada determined under section 55 minus the aggregate of such of the deductions permitted under section 54 as may reasonably be considered wholly applicable on the assumption that the only assets of the corporation were assets pertaining exclusively to its permanent establishments in Canada. 1972, c. 143, s. 129.

57. In computing the paid-up capital employed in Canada of a corporation for the purpose of this Part there shall not be

R.S.C. 1952,
c. 148

included the amount of the paid-up capital invested in a ship or aircraft operated by such corporation in Canada if such corporation is entitled, in computing its income for a taxation year, to exclude the income for a taxation year earned in Canada from the operation of such ship or aircraft under paragraph 81 (1) (c) of the *Income Tax Act* (Canada) as that paragraph applies by virtue of section 22 of this Act. 1972, c. 143, s. 130; 1977, c. 58, ss. 12; 26.

DIVISION D—COMPUTATION OF CAPITAL TAX PAYABLE

Rate of
capital tax

58.—(1) Except as provided in subsections (2) and (3), the tax payable under this Part by a corporation for a taxation year calculated upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this subsection referred to as the “amount taxable”, is three-tenths of 1 per cent of the amount taxable.

Rate of
capital
tax on
banks

(2) The tax payable under this Part by a bank for a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the “amount taxable” is four-fifths of 1 per cent of the amount taxable.

Rate of
tax on loan
and trust
corporations
R.S.O. 1980,
c. 249

(3) The tax payable under this Part by a corporation registered under the *Loan and Trust Corporations Act* for a taxation year calculated upon its taxable paid-up capital, in this subsection referred to as the “amount taxable” is three-fifths of 1 per cent of the amount taxable. 1979, c. 28, s. 16, *part*.

Deduction
from tax
on paid-up
capital

59.—(1) Except as provided in subsections (2) and (3), there may be deducted from the tax otherwise payable under this Part by a corporation for a taxation year an amount equal to three-tenths of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, that is deemed to be used by the corporation in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

Idem

(2) There may be deducted from the tax otherwise payable under this Part by a bank for a taxation year an amount equal to four-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the bank in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

(3) There may be deducted from the tax otherwise payable under this Part by a corporation registered under the *Loan and Trust Corporations Act* for a taxation year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital that is deemed to be used by the corporation registered under the *Loan and Trust Corporations Act* in the taxation year in each jurisdiction outside Ontario determined under rules prescribed by the regulations. 1979, c. 28, s. 16, *part.* Idem
R.S.O. 1980,
c. 249

60. Notwithstanding section 59, and except as provided in subsection 63 (1), the tax payable under this Part shall in no case be less than \$50. 1972, c. 143, s. 133. Minimum
tax

61.—(1) Notwithstanding subsection 58 (1) and subsection 59 (1), and except as provided in subsections 63 (1) and (2), the tax payable by a corporation under this Part for a taxation year shall be, Flat rate
tax

(a) \$50, where its taxable paid-up capital does not exceed \$100,000; or

(b) the lesser of,

(i) the tax that would otherwise be payable under this Part if subsection 58 (1) and subsection 59 (1) were applicable, and

(ii) \$100,

where its taxable paid-up capital exceeds \$100,000 but does not exceed \$1,000,000.

(2) Notwithstanding subsection 58 (1) and subsection 59 (1), and except as provided in subsections 63 (1) and (2), where the taxable paid-up capital of a corporation for a taxation year exceeds \$1,000,000, but does not exceed \$1,200,000, the tax payable under this Part for a taxation year by the corporation shall be the lesser of, Notch
provisions

(a) the tax that would otherwise be payable under this Part if subsection 58 (1) and subsection 59 (1) were applicable; and

(b) the amount by which the tax that would otherwise be payable under this Part if no deduction were made under subsection 59 (1) exceeds 1.45 per cent of the amount by which \$1,200,000 exceeds its taxable paid-up capital.

(3) For the purposes of this section, the taxable paid-up capital of a corporation to which section 55 applies shall be determined Non-resident
corporations

in accordance with the provisions of Division B of this Part. 1980, c. 23, s. 6.

Exemptions

62. The tax imposed by this Part is not payable by any corporation that is liable to a tax under section 66 or by any corporation that is liable to the taxes imposed under this Act by virtue only of clause 2 (2) (c) or 2 (3) (c). 1972, c. 143, s. 134; 1973, c. 42, s. 16.

Idem

R.S.C. 1952,
c. 148

63.—(1) Except as provided in subsection 12 (10), every corporation referred to in subsection 49 (1), other than a corporation referred to in paragraph 149 (1) (m) of the *Income Tax Act* (Canada), shall not be required to pay the taxes otherwise payable under section 58 or 60. 1977, c. 58, s. 13, *part*.

Idem

(2) Subject to subsection (3), every corporation referred to in clause 1 (1) (d) or (e), and sections 39 and 43 of this Act and paragraph 149 (1) (m) of the *Income Tax Act* (Canada) shall, in lieu of the tax payable under section 58 or 60, pay a tax of \$50. 1977, c. 58, s. 13, *part*; 1980, c. 23, s. 7.

Idem

(3) Subsection (2) does not apply in the case of a corporation referred to in clause 1 (1) (d) where, pursuant to subsection 31 (2) of the *Income Tax Act* (Canada) as made applicable by subsection 12 (1) of this Act, the Minister has determined that the chief source of income of the corporation for a taxation year is neither farming nor a combination of farming and some other source of income. 1977, c. 58, s. 13, *part*.

Apportion-
ment of
capital tax

64. Subject to section 60, where a corporation has a taxation year of less than 365 days, the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such taxation year bears to 365, except that this section does not apply,

(a) to any corporation to which section 63 applies; or

(b) to any corporation the taxation year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act. 1977, c. 16, s. 6; 1977, c. 58, s. 26.

Idem

65. Where the exemption under section 49 applies to a part of a taxation year only, the provisions of subsections 63 (1) and (2) do not apply, and in any such case the tax otherwise payable under this Part shall be in the proportion thereof that the number of days of the taxation year for which the exemption under subsection 49 (1) does not apply, bears to 365, except that the tax payable under this Part as reduced by this section shall in no case be less than \$50. 1972, c. 143, s. 137; 1977, c. 58, ss. 14, 26.

PART IV

LIABILITY FOR SPECIAL TAXES

66.—(1) Every insurance corporation shall pay a tax of, Insurance corporations

(a) 2 per cent calculated on the gross premiums payable, under contracts of accident insurance, life insurance and sickness insurance; and

(b) 3 per cent calculated on the gross premiums payable, under any other contract of insurance,

to the corporation or its agent or agents during the taxation year in respect of business transacted in Ontario (other than premiums in respect of reinsurance ceded to the corporation by other insurance corporations and considerations for annuities), after deducting from such premiums the amount of,

(c) the cash value of dividends credited to policyholders; and

(d) the premiums returned. 1978, c. 14, s. 16 (1).

(2) For the purposes of subsection (1), “accident insurance”, “life insurance” and “sickness insurance” have the respective meanings given to those expressions by section 1 of the *Insurance Act*. 1978, c. 14, s. 16 (2), *part*. Interpretation
R.S.O. 1980,
c. 218

(3) In addition to the tax payable under subsection (1), every corporation transacting business as an insurer for property insurance within the meaning of the *Insurance Act* and the regulations made thereunder shall pay a tax of one-half of 1 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the taxation year in respect of such business transacted in Ontario other than premiums in respect of re-insurance ceded to the corporation by other insurers after deducting from such premiums, Idem

(a) cash value of dividends credited to policyholders;

(b) premiums returned. 1972, c. 143, s. 143 (2); 1977, c. 58, s. 26.

(4) For the purposes of this section, “insurance corporation” and “corporation”, as the case may be, include underwriters and Insurance corporation, what included

syndicates of underwriters operating on the plan known as Lloyds, and include fraternal societies as defined in the *Insurance Act*. 1973, c. 42, s. 18 (1).

Premiums
in respect of
business
transacted
in Ontario

(5) In determining the amount of taxes payable under subsections (1) and (3),

- (a) every life insurance premium that becomes payable at the time the person insured is a resident of Ontario; and
- (b) every other premium that by the terms of the policy or renewal thereof becomes payable in respect of insurance of a person resident or property situate in Ontario at the time such premium becomes payable whether or not,
 - (i) such premium is earned wholly or partly in Ontario,
 - (ii) the business in respect of the policy is transacted wholly or partly in Ontario, or
 - (iii) the payment of such premium is made wholly or partly in Ontario,

shall be deemed to be a premium payable in respect of business transacted in Ontario. 1972, c. 143, s. 143 (3).

Exemptions

- (6) The tax imposed by subsection (1) is not payable,
- (a) in respect of premiums payable under a contract of marine insurance;
 - (b) in respect of premiums payable under contracts of insurance issued on the premium note plan by mutual insurance corporations insuring agricultural and other non-hazardous risks, the sole business of which is carried on in Ontario;
 - (c) in respect of premiums payable to mutual insurance corporations insuring agricultural and other non-hazardous risks, which are parties to the agreement, made pursuant to section 146 of the *Insurance Act*, establishing the Fire Mutuals Guarantee Fund;
 - (d) by fraternal societies as defined in the *Insurance Act*, with respect to contracts entered into prior to the 1st day of January, 1974;

(e) by mutual benefit societies as defined in the *Insurance Act*; or R.S.O. 1980,
c. 218

(f) by pension fund and employees' mutual benefit societies incorporated under or subject to the *Corporations Act*. 1976, c. 32, s. 18 (3). R.S.O. 1980,
c. 95

(7) In this section, "marine insurance" means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air which are incidental to any sea voyage. Marine
insurance

(8) Where it is established to the satisfaction of the Lieutenant Governor in Council that any jurisdiction discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance corporation or any particular class of insurance corporations organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar corporation or class of corporations organized under the laws of such jurisdiction, the Lieutenant Governor in Council may direct that any corporation or any class of corporations organized under the laws of such jurisdiction and that transacts business in Ontario shall pay, in addition to the tax otherwise imposed by this section, a tax not exceeding the equivalent of such excess, and such additional tax is recoverable in the same manner as any other tax imposed by this Act. 1972, c. 143, s. 143 (5, 6). Unfair dis-
crimination

(9) For the purposes of this Act, the taxation year of every insurance corporation shall be deemed to end on the 31st day of December. 1972, c. 143, s. 143 (7); 1977, c. 58, s. 26. Taxation
year

PART V

RETURNS, PAYMENTS, ASSESSMENTS AND APPEALS

DIVISION A—RETURNS

67.—(1) Every corporation on which a tax is imposed by this Act shall, on or before the last day of the month that ends six months following the close of its taxation year, without notice or demand, and every corporation on which a tax is or is not imposed by this Act shall, upon receipt of a notice or Annual
return

demand in writing from the Minister or from any officer of the Ministry of Revenue authorized by the Minister to make such demand, deliver to the Minister such return as is required for the purpose of carrying out the provisions of this Act. 1972, c. 143, s. 145 (1); 1977, c. 58, s. 26.

Verification
of returns

(2) The return shall contain an estimate of the respective taxes payable and shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the corporation, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the corporation and, in the case of an extra-provincial corporation, by the manager or chief agent of the corporation in Ontario or by such other person or persons connected with the corporation as the Minister requires. 1972, c. 143, s. 145 (2).

Trustees,
etc.

(3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a corporation that has not filed a return for a taxation year as required by this section shall file the return required by subsection (1) for that corporation for that year. 1977, c. 58, s. 15.

Penalty
for default

68.—(1) Every corporation that fails to deliver a return as and when required by subsection 67 (1) shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the corporation for the taxation year that was unpaid at that time was less than \$10,000; and
- (b) \$500, if at the time the return was required to be delivered tax payable by the corporation equal to \$10,000 or more was unpaid. 1972, c. 143, s. 146 (1); 1977, c. 58, s. 26.

Failure to
complete
return

(2) Every corporation that fails to complete the information required on the return to be delivered under subsection 67 (1) is liable to a penalty of 1 per cent of the taxes payable by it under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

(3) Every person who has,

False
statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a corporation;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both fine and imprisonment. 1972, c. 143, s. 146 (2, 3).

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of 25 per cent of the amount, if any, by which,

Statements
or omissions
in return

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other sub-

ject of tax for the year were computed by adding to the taxable income or other subject of tax reported by it in its return for the year that portion of the understatement of income or the understatement of any other subject of tax, for the year, that is reasonably attributable to the false statement;

exceeds,

- (b) the tax for the year that would have been payable by it under this Act had the tax payable for the year been assessed on the basis of the information provided in its return for the year.

Interpre-
tation

(5) For the purposes of subsection (4), the taxable income reported by a corporation in its return for a taxation year shall be deemed not to be less than nil and the "understatement of income" for a year shall be determined in accordance with the rules provided in subsection 163 (2.1) of the *Income Tax Act* (Canada). 1978, c. 14, s. 17.

R.S.C. 1952,
c. 148

Extended
time for
making
returns

69. The Minister may enlarge the time for making any return before or after the time for making it. 1972, c. 143, s. 147.

DIVISION B—PAYMENTS

Taxes,
when to
accrue

70.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each taxation year for which such taxes are imposed pass. 1972, c. 143, s. 148 (1); 1977, c. 58, s. 26.

Dates of
payment

(2) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

(a) on or before,

- (i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of the tax payable as estimated by it at the rates for the taxation year on,

(A) its estimated taxable income and other subject of tax for the taxation year, or

(B) its taxable income and other subject of tax for the immediately preceding taxation year, or

- (ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of the tax payable as estimated by it, at the rates for the taxation year, on its taxable income and other subject of tax for the second taxation year preceding the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from the tax payable as estimated by it at the rates for the taxation year on its taxable income and other subject of tax for the immediately preceding taxation year; and

(b) the balance, if any, of the tax payable for the taxation year as estimated by it under subsection 67 (2),

- (i) on or before the last day of the third month of the taxation year following that in respect of which the tax is payable, where an amount was deducted by virtue of section 125 of the *Income Tax Act* (Canada) in computing the tax payable by the corporation under Part I of that Act for the taxation year or the immediately preceding taxation year, or ^{R.S.C. 1952, c. 148}

- (ii) on or before the last day of the second month of the taxation year following that in respect of which the tax is payable, in any other case. 1975, c. 17, s. 64 (1), *part*; 1977, c. 58, s. 16 (1); 1977, c. 58, s. 26; 1978, c. 14, s. 18 (1).

(3) Where the tax payable by a corporation for the taxation year or for the immediately preceding taxation year is less than \$2,000, the corporation may, instead of paying the instalments required by clause (2) (a), pay its tax payable for the taxation year, as estimated by it under subsection 67 (2), in accordance with clause (2) (b). 1976, c. 32, s. 19 (1); 1977, c. 58, s. 26. ^{Special cases}

Mutual fund
corporations

(4) Notwithstanding clause (2) (a), the amount payable by a mutual fund corporation to the Treasurer of Ontario on or before the last day of any month of the taxation year in respect of which the tax is payable, shall be deemed to be the amount, if any, by which,

(a) the amount so payable otherwise determined under that subsection,

exceeds,

(b) one-twelfth of the corporation's capital gains refund for the year, as determined under section 40. 1978, c. 14, s. 18 (2).

Idem

(5) Where the tax payable by a mutual fund corporation for the taxation year or for the immediately preceding taxation year is less than \$2,000 after deducting its capital gains refund as determined under section 40 for the taxation year or for the immediately preceding taxation year, as the case may be, the corporation may, instead of paying the instalments required by clause (2) (a), pay its tax payable for the taxation year, as estimated by it under subsection 67 (2), in accordance with subclause (2) (b) (ii) after deducting its capital gains refund for the taxation year. 1976, c. 32, s. 19 (2); 1977, c. 58, ss. 16 (3), 26.

Application
of payments
received

(6) Any amount received by Her Majesty on account of amounts payable under this Act by a corporation shall be applied firstly against any interest then payable by the corporation, any balance of the amount received shall be applied against any penalty then payable by the corporation, and any balance then remaining of the amount received shall be applied against the tax payable by the corporation. 1980, c. 23, s. 8.

Entertain-
ment
corporations

71.—(1) This section applies where a corporation to which subsection 2 (2) or (3) is applicable is deemed by subsection 5 (8) to have maintained a permanent establishment in Ontario by virtue of it having produced or presented any form of entertainment by means of a performance in a public place in Ontario.

Withholding

(2) Any person that is about to make a payment to a corporation referred to in subsection (1) as consideration for the performance shall, notwithstanding any agreement or law to the contrary, deduct or withhold an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

Idem

(3) Where an amount has been paid to an agent or other person for or on behalf of a corporation referred to in sub-

Ultra vires

section (1) as consideration for the performance without an amount having been deducted or withheld as required under subsection (2), the agent or other person shall, notwithstanding any agreement or law to the contrary, deduct or withhold from such payment an amount equal to 5 per cent thereof and in the prescribed time and manner remit the amount deducted or withheld to the Treasurer of Ontario on behalf of the corporation on account of the taxes payable by the corporation under this Act.

(4) Any person who,

Liability
for tax

- (a) has failed to deduct or withhold any amount as required by this section with respect to a corporation referred to in subsection (1); or
- (b) having deducted or withheld an amount as required by this section, has failed to remit such amount to the Treasurer of Ontario as required by this section,

is liable when assessed therefor to pay on account of the taxes payable by the corporation under this Act the whole of the amount that should have been deducted or withheld or remitted, as the case may be, together with interest thereon, from the date that the amount was required to be remitted to the date of payment at the rate prescribed for the purposes of subsection 72 (1), and such person is entitled to deduct or withhold from any amount payable by him to the corporation or otherwise recover from the corporation any amount paid by him on account of tax under this section on behalf thereof.

(5) Divisions C, D, E and F of this Part, and Part VI except section 92, apply with necessary modifications to an assessment under this section.

Application
of this Part
and Part VI

(6) No action lies against any person for deducting or withholding any sum of money in compliance or intended compliance with this section.

No action for
compliance

(7) The receipt of the Minister for an amount remitted by a person as required by this section is a good and sufficient discharge of the liability of such person to the corporation on behalf of which the amount was remitted to the extent of the amount referred to in the receipt.

Minister's
receipt

(8) Where a person on whose behalf an amount has been remitted to the Treasurer of Ontario after having been deducted or withheld under this section was not liable to pay any tax under this Act, the Minister shall, upon appli-

Application
for refund

cation in writing made within two years from the end of the calendar year in which the amount was remitted, pay to him the amount so remitted, unless he is otherwise liable or about to become liable to make a payment under this Act, in which case the Minister may apply the amount otherwise payable under this subsection to that payment and notify him of that fact.

Penalty

(9) Every person who has failed to remit an amount deducted or withheld as required by this section is liable to pay, in addition to that amount, a penalty of 10 per cent of that amount or \$10, whichever is the greater. 1979, c. 28, s. 18.

Interest
on unpaid
tax

72.—(1) Where the amount paid on account of the tax payable by a corporation for a taxation year is less than the amount of tax payable for the taxation year, the corporation liable to pay the tax shall pay interest on the difference between,

(a) the amount of tax payable for the taxation year;
and

(b) the amount paid on account of the tax payable
for the taxation year,

from the day on which the balance of the tax payable is required to be paid pursuant to clause 70 (2) (b) to the day of payment of the tax, at such rate as is prescribed by the regulations.

Interpre-
tation

(2) For the purposes of subsection (1), the “amount paid on account of the tax payable” is the amount paid by the corporation on account of the tax payable for the taxation year minus any amounts refunded to the corporation or any amounts applied to other liability of the corporation pursuant to section 75. 1978, c. 14, s. 19 (1).

Interpre-
tation

(3) For the purposes of subsections (1) and (2), the “amount of tax payable” for a taxation year includes any penalty payable by the corporation for the taxation year. 1980, c. 23, s. 9 (1).

Interest on
unpaid tax

(4) Where a corporation is required by section 70 to pay all or a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection (1), shall pay interest, at such rate as is prescribed by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection (1), whichever is earlier. 1972, c. 143, s. 149 (2); 1975, c. 17, s. 65; 1976, c. 32, s. 20.

(5) Where the Minister has reassessed the tax payable for a taxation year under subsection 73 (7) and the tax payable is greater or less than the tax previously assessed for that taxation year, the amount of interest payable under subsection (4) shall be the amount that would have been payable if such reassessment had not been made. 1980, c. 23, s. 9 (2).

(6) Where a corporation is entitled to deduct under subsection 111 (1) of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act in computing its taxable income for a taxation year an amount in respect of a loss sustained in the taxation year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", for the purpose of computing interest and penalty interest under this section on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 111 (1) of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act in respect of that loss. 1972, c. 143, s. 149 (4); 1977, c. 58, s. 17.

Effect of
carry-back
of loss
R.S.C. 1952,
c. 148

(7) For the purpose of calculating interest under subsection (4), where a corporation is required to pay a part or instalment of tax for a taxation year pursuant to subsection 70 (2), the corporation shall be deemed to have been liable to pay the part or instalment determined,

Interest on
unpaid part or
instalment of
tax

- (a) on the basis of the tax payable for the taxation year;
- (b) under sub-subclause 70 (2) (a) (i) (B); or
- (c) subclause 70 (2) (a) (ii),

whichever method gives the least amount required to be paid. 1979, c. 28, s. 19.

DIVISION C—ASSESSMENTS

73.—(1) The Minister shall with all due despatch examine each return delivered under section 67, shall assess the tax for the taxation year and the interest and penalties, if any, payable and shall determine the amount of refund, if any, to which the corporation may be entitled by virtue of section 38 or 40 for the taxation year. 1977, c. 58, s. 18 (1), *part*.

Assessment
of returns

**Determina-
tion of
losses**

(2) Where the Minister ascertains the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year and that amount is different from the amount reported by the corporation in its return of income for that year, the Minister shall, at the request of the corporation, determine, with all due despatch, the amount of the corporation's non-capital loss, net capital loss or restricted farm loss, as the case may be, and shall send a notice of determination to the corporation that delivered the return.

**Provisions
applicable
R.S.C. 1952,
c. 148**

(3) The provisions of paragraph 56 (1) (*l*) and paragraph 60 (*o*) of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 14 and 15, respectively, of this Act, and the provisions of this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, are applicable, with necessary modifications, to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections (1) and (5) are not applicable to determinations made under subsection (2) and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year may be made by the Minister only at the request of the corporation.

**Determina-
tion binding**

(4) For greater certainty, where the Minister makes a determination of the amount of a corporation's non-capital loss, net capital loss or restricted farm loss for a taxation year, as the case may be, subject to the corporation's rights of objection and appeal in respect of the determination and subject to any redetermination by the Minister, the determination is binding on both the Minister and the corporation for the purposes of calculating the taxable income of the corporation in any other year. 1978, c. 14, s. 20.

**Notice of
assessment**

(5) After examination of a return, the Minister shall send, by mail or by registered mail or deliver by personal service a notice of assessment to the corporation that delivered the return.

**Continuation
of liability
for tax**

(6) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. 1972, c. 143, s. 150 (2, 3).

**Reassess-
ment**

(7) The Minister may at any time assess tax, interest or penalties, or notify in writing any person by whom a return of income or other subject of tax for a taxation year has been filed that no tax is payable for the taxation year, and may,

(a) at any time, if the corporation or person filing the return,

- (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
- (ii) has failed to file financial statements with the return required to be filed under section 67, or
- (iii) has been negligent in supplying any information under this Act, or
- (iv) has filed with the Minister a waiver in a prescribed form within six years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year, or
- (v) has filed with the Minister of National Revenue for Canada a waiver within the time and in the form required by subsection 152 (4) of the *Income Tax Act* (Canada), or
- (vi) has claimed a deduction under paragraph 20 (1) (s) of the *Income Tax Act* (Canada) as made applicable by section 12 of this Act; and

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- (b) within six years from the day referred to in sub-clause (a) (iv), in any other case,

reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require. 1972, c. 143, s. 150 (4); 1977, c. 58, ss. 18 (2), 26; 1979, c. 28, s. 20.

(8) Where a corporation has delivered the return required ^{Idem} by section 67 for a taxation year and, within one year from the day on or before it was required by section 67 to deliver a return for that taxation year, has filed an amended return for the taxation year claiming a deduction from income under subsection 111 (1) of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act in respect of a loss sustained in the taxation year immediately following that taxation year, the Minister shall reassess the tax payable by the corporation for that taxation year. 1972, c. 143, s. 150 (5); 1977, c. 58, ss. 18 (3), 26.

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c. 148

(9) The Minister is not bound by a return or information delivered by or on behalf of a corporation and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. ^{Minister not bound by returns}

Assessment
valid and
binding

(10) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. 1972, c. 143, s. 150 (6, 7).

Payment of
assessment

74.—(1) Every corporation shall within thirty days from the day of mailing of the notice of assessment pay any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

Idem

(2) Where in the opinion of the Minister a corporation is attempting to avoid payment of a tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 73 (9), he may, notwithstanding subsection 73 (5), serve the notice of assessment upon the corporation or the president, manager, secretary or any director, agent or representative thereof and direct that all taxes, penalties and interest as set out therein shall be paid forthwith. 1972, c. 143, s. 151.

DIVISION D—REFUNDS OF OVERPAYMENTS

Refunds

75.—(1) If the return required to be delivered by a corporation under section 67 for a taxation year has been delivered within four years from the end of that taxation year, the Minister,

- (a) may, upon mailing the notice of assessment for the taxation year, refund without application therefor any overpayment made on account of the tax payable for the taxation year; and
- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within four years from the day on which the overpayment was made or the day on which the notice of assessment was mailed. 1972, c. 143, s. 152 (1); 1977, c. 58, s. 26.

Application
to other
taxes

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the corporation is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of such action. 1972, c. 143, s. 152 (2).

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the later of, Interest on overpay-
ments

(a) the day on which the overpayment arose; and

(b) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause 70 (2) (b),

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. 1978, c. 14, s. 21.

(4) Where by a decision of the Minister under section 77 Idem or by virtue of a decision made under section 85 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a taxation year is less than the amount assessed by the assessment under section 73 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the taxation year, the interest payable under subsection (3) on that overpayment shall be computed at such rate as is prescribed by the regulations. 1972, c. 143, s. 152 (4); 1977, c. 58, ss. 19 (1), 26.

(5) Where an amount has been paid with respect to the provisions of section 92 and the tax payable under this Act for the taxation year as finally determined is less than the payment, the interest payable on that overpayment shall, notwithstanding subsection (3), be computed at such rate as is prescribed for the purpose of subsection (4) as though the day on which the overpayment arose is the day upon which the payment was made. 1972, c. 143, s. 152 (5); 1977, c. 58, s. 26. Idem

(6) Except as provided in subsection (5), for the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax payable for a taxation year minus all amounts payable under this Act or an amount so paid where no amount is so payable. 1972, c. 143, s. 152 (6); 1977, c. 58, s. 26. Interpre-
tation

(7) Where a corporation is entitled to deduct under subsection 111 (1) of the *Income Tax Act* (Canada) as made applicable by sections 27 of this Act in computing its taxable income for a taxation year an amount in respect of a loss sustained in the taxation year Effect of
carry-back
of loss
R.S.C. 1952.
c. 148

immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection (3) for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 111 (1) of the *Income Tax Act* (Canada) as made applicable by section 27 of this Act in respect of that loss. 1972, c. 143, s. 152 (7); 1977, c. 58, ss. 19 (2), 26.

Credit
interest on
overpaid
instalments

76.—(1) Where instalments of tax as required by subsection 70 (2) are overpaid at any time prior to,

- (a) the day on or before which the balance of the tax payable for the taxation year is required to be paid pursuant to clause 70 (2) (b); or
- (b) the day on which a refund was made upon assessment where such assessment is made before the day referred to in clause (a),

whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 75 (3) shall be allowed on the amount of the overpayment. 1978, c. 14, s. 22.

Application

(2) Subsection (1) does not apply with respect to any amount to which subsection 75 (5) applies. 1972, c. 143, s. 153 (2).

Idem

(3) Where the Minister has reassessed the tax payable for a taxation year under subsection 73 (7) and the tax payable is greater or less than the tax previously assessed, the amount of interest allowable under subsection (1) shall be the amount that would have been allowable if such reassessment had not been made. 1980, c. 23, s. 10.

DIVISION E—OBJECTIONS TO ASSESSMENT

Notice of
objection

77.—(1) A corporation that objects to an assessment under section 73 may within ninety days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Service

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister.

(3) The Minister may accept a notice of objection under this ^{Idem} section notwithstanding that it was not served in duplicate or in the manner required by subsection (2).

(4) Upon receipt of the notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and he shall thereupon notify the corporation of his action by registered letter. 1972, c. 143, s. 154. ^{Reconsideration}

(5) A reassessment made by the Minister pursuant to ^{Idem} subsection (4) is not invalid by reason only of not having been made within six years from the day of mailing of a notice of an original assessment or of a notification described in subsection 73 (7). 1976, c. 32, s. 21.

(6) Where a corporation has served a notice of objection to an assessment in accordance with this section or has instituted an appeal in accordance with section 78 and thereafter the Minister issues to the corporation, ^{Reassessment, additional assessment or determination does not invalidate objection or appeal}

(a) a reassessment or additional assessment of tax, interest or penalties under section 73; or

(b) a determination of the amount of a refund or loss under subsection 73 (1) or (2),

for the taxation year in respect of which the notice of objection was served or the appeal instituted, and sends to the corporation a notice of such reassessment, additional assessment or determination,

(c) the reassessment, additional assessment or determination does not invalidate the notice of objection or appeal, as the case may be; and

(d) the corporation may, if section 85 does not apply, file an additional objection in respect of any new matters raised in the reassessments, additional assessment or determination, as the case may be. 1977, c. 58, s. 21.

DIVISION F—APPEALS

78.—(1) Where a corporation has served notice of objection ^{Appeal} to an assessment under section 77, the corporation may appeal

to the Supreme Court to have the assessment vacated or varied after the Minister has confirmed or reassessed, but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the corporation under section 77 that the Minister has confirmed the assessment or reassessed. 1972, c. 143, s. 155 (1); 1977, c. 58, s. 22 (1), *revised*.

Appeals,
how
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or other permanent establishment.

Notice of
appeal

(3) A notice of appeal shall be served upon the Minister by being sent by registered mail addressed to the Minister.

Statement
of allegations

(4) The corporation appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and reasons that it intends to submit in supporting its appeal. 1972, c. 143, s. 155 (2-4).

Reply to
notice of
appeal

79. The Minister shall with all due dispatch serve on the corporation appealing and file in the Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on, and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice of appeal, the corporation may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment or part thereof, as the case may be, with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment or part thereof, as the case may be, shall be repaid to the corporation, but nothing in this section revives an appeal that is void or affects an assessment that has become valid and binding under subsection 73 (10). 1979, c. 28, s. 21.

Matter
deemed
action

80.—(1) Upon the filing of the material referred to in sections 78 and 79 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or

district in which the corporation appealing has its head office or permanent establishment, the matter shall be deemed to be an action in the court. 1972, c. 143, s. 157 (1); 1977, c. 58, s. 23.

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. Facts not set out may be pleaded

(3) The court may dispose of the appeal by,

Disposal of appeal

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and,

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment.

(4) The court may in delivering judgment disposing of an appeal order payment or refund of tax, interest, penalties or costs by the corporation or the Minister, as the case may be. 1972, c. 143, s. 157 (2-4). Court may order payment of tax, etc.

81. Proceedings under this Division shall be held *in camera* upon request made to the court by the corporation appealing or by the Minister. 1972, c. 143, s. 158. Proceedings in camera

82. The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 80, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. 1972, c. 143, s. 159. Supreme Court practice to govern

83. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. 1972, c. 143, s. 160. Irregularities

Extension
of time

84. The time within which a notice of objection under subsection 77 (1) or a notice of appeal under subsection 78 (1) is to be served may be extended by the Minister if application for extension is made prior to the expiration of the time for service of the notice of objection or notice of appeal, as the case may be. 1977, c. 58, s. 24, *part.*

Alternative
objection and
appeal
procedure

85.—(1) Where,

(a) a notice of assessment is issued to a corporation under section 73 that states on the face thereof that the assessment or a designated part thereof has been made pursuant to this section (which assessment or part, as the case may be, is hereinafter referred to as the designated assessment);

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c. 148

(b) a notice of assessment has been issued to the corporation under the *Income Tax Act* (Canada) based on provisions in that Act corresponding to the provisions in this Act on which the designated assessment was based;

(c) the corporation has served a notice of objection to the assessment referred to in clause (b) in which the same issues have been raised as would have been raised in an objection to the designated assessment; and

(d) the corporation has not served in accordance with section 77 a notice of objection to the designated assessment,

this section applies to the designated assessment, and in any such case, sections 77 to 83 do not apply, but those sections do apply to the part, if any, of the assessment referred to in clause (a) that is not a designated assessment.

Corporation
and Minister
bound

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies, be bound by,

(a) the decision of the Minister of National Revenue for Canada from which no appeal is taken in accordance with the *Income Tax Act* (Canada); or

(b) where an appeal is instituted, the final disposition of the appeal by the Tax Review Board or any court of competent jurisdiction; or

- (c) any minutes of settlement of the issues raised in the notice of objection to the assessment referred to in clause (1) (b) made between the corporation and the Minister of National Revenue for Canada at any stage of the proceedings following the service of that notice of objection,

and in any such case the Minister shall, where necessary, reassess the corporation in accordance therewith.

(3) Sections 77 to 83 do not apply to the reassessment ^{Idem} referred to in subsection (2). 1977, c. 58, s. 24, *part*.

PART VI

ADMINISTRATION AND ENFORCEMENT

86.—(1) Any person thereunto authorized by the Minister <sup>Investiga-
tions</sup> for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the president, manager, secretary or any director, agent or representative of the corporation liable to pay or considered possibly liable to pay tax under this Act and any other person on the premises of such corporation to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him; and

- (d) if, during the course of an audit or examination, it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any corporation or from the president, manager, secretary, or any director, agent or representative thereof,

- (a) any information or additional information or a return as required by section 67 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any portion of the income of the corporation, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein.

Idem

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the provincial police or other peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is payable under this Act by any corporation and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

Idem

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Ministry of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act.

Idem

(7) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Copies

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Compliance

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

Administration of oaths

(10) For the purpose of an inquiry authorized under subsection (6), the person authorized to make the inquiry has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. 1972, c. 143, s. 161.

Powers of inquiry

R.S.O. 1980, c. 411

Books and
records

R.S.C. 1952,
c. 148

87.—(1) Every corporation that is required by this Act to pay taxes shall keep records and books of account, including an annual inventory kept in the same manner as is required for purposes of the *Income Tax Act* (Canada) and the regulations made thereunder at its permanent establishment in Ontario or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined.

Idem

(2) Where a corporation has failed to keep adequate records and books of account for the purpose of this Act, the Minister may require the corporation to keep such records and books of account as he specifies and the corporation shall thereafter keep records and books of account as so required.

Idem

(3) Every corporation required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such records or books of account. 1972, c. 143, s. 162.

Offences

88.—(1) Every corporation that has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of not less than \$25 for each day of default.

Idem

(2) Every person who has failed to comply with or contravened section 86 or 87 is guilty of an offence and, in addition to any penalty otherwise provided, on conviction is liable to a fine of \$25 for each day during which the default continues. 1972, c. 143, s. 163.

Officers,
etc., of
corporations

89. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1972, c. 143, s. 164.

Time for
laying
information

90. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. 1972, c. 143, s. 165.

Communica-
tion of
information

91.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person

not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act.

(2) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. Offence
and
penalty

(3) Notwithstanding subsection (1), the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. 1972, c. 143, s. 166. Exception

(4) Notwithstanding subsection (1), the Minister may provide information obtained or written statements furnished under this Act to officers in the Ministry of Natural Resources for the Province of Ontario authorized by the Minister of Natural Resources to receive, with the concurrence of the Minister of Revenue, such information or statements for the purpose of aiding in an assessment of tax liability under the *Mining Tax Act*. 1980, c. 23, s. 11. Exception

R.S.O. 1980,
c. 269

Collection

92.—(1) All taxes, interest, penalties, costs and other amounts imposed under this or any predecessor Act in respect of any taxation year of a corporation are, upon the registration by the Minister in the proper land registry office of a notice claiming the first lien and charge conferred by this section, a first lien and charge upon real property in Ontario or any interest therein of the corporation liable to pay such taxes, interest, penalties, costs and other amounts. Lien upon
real
property
in respect
of taxes
and other
amounts
imposed

(2) The first lien and charge conferred by subsection (1) is in respect of all taxes, interest, penalties, costs and other amounts for which the corporation is liable at the time of registration of the notice and all taxes, interest, penalties, costs and other amounts for which the corporation becomes liable thereafter while the notice remains registered, and such first lien and charge has priority over all encumbrances or claims registered or attaching to the subject property subsequent to the registration of the notice. Amounts
included
and
priority

(3) Any property of any kind that is, by virtue of any predecessor of this section, subject to a first lien and charge that is not registered in the proper land registry office, is absolutely dis- Unregistered
liens
discharged

charged from such unregistered first lien and charge unless, in the case of real property, in any proceeding a claim has been made or other steps taken by the Minister with respect to such unregistered first lien and charge and, prior to the 31st day of January, 1980, a notice of such first lien and charge has been registered by the Minister in the proper land registry office.

Where corporation is not a registered owner

(4) Where a corporation has an interest in real property but is not shown as the registered owner thereof in the proper land registry office,

(a) the notice to be registered under subsection (1) shall recite the interest of the corporation in the real property; and

R.S.O. 1980, c. 31

(b) a copy of the notice registered under subsection (1) shall be sent to the registered owner at his address to which the latest notice of assessment under the *Assessment Act* has been sent.

Leasehold interests

(5) In this section, "real property" includes any interest of a corporation as lessee of real property. 1979, c. 89, s. 1.

Garnishment

93.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that corporation in whole or in part to the Treasurer of Ontario on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer of Ontario for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability of debtor

(3) Every person who has discharged any liability to a corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer of Ontario, whichever is the lesser.

Service of garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a corporation liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left

with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become indebted or liable to make a payment to a corporation liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. 1972, c. 143, s. 168. Idem

94.—(1) Upon default of payment by a corporation of any tax, interest or penalty or any of them imposed upon a corporation by this Act, Recovery of tax, interest and penalties

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;
- (b) the Minister may issue a warrant, directed to the sheriff of any county or district in which any property of the corporation is located or situate, for the amount of the tax, interest and penalty or any of them owing by the corporation, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Part as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Part shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proven in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. 1972, c. 143, s. 169. Compliance of Minister to be proved by affidavit

95. The use of any of the remedies provided by sections 93 and 94 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of any tax, interest and penalty Remedies for recovery of tax and penalty

or any of them imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. 1972, c. 143, s. 170.

Notice to be
given
Minister of
sale of
company's
capital assets

96.—(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 73 (5), no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Minister not less than ten days before the date of the sale.

Penalty

(2) Every person who contravenes the provisions of subsection (1) is liable to a penalty of not less than an amount equal to the amount of such taxes, interest and penalties in default and such penalty is recoverable by action in any court in which a debt or money demand of a similar amount may be collected. 1972, c. 143, s. 171.

Com-
promising
disputes as to
liability
for taxes

97. If any doubt or dispute arises as to the liability of a corporation to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. 1972, c. 143, s. 172.

General
offence

98. Every person who, and every corporation that, contravenes or fails to comply with any of the provisions of this Act or the regulations for which no other fine is provided is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500. 1972, c. 143, s. 173.

Fines
payable to
Treasurer

99. The fines imposed for offences under this Act are payable to the Treasurer of Ontario. 1972, c. 143, s. 174.

Regulations

100.—(1) The Lieutenant Governor in Council may make regulations,

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (b) providing for the issuance of certificates as to the amount of taxes, interest and penalties or any of them owing by any corporation under this Act and prescribing the fee payable therefor;

- (c) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by the regulations;
- (d) prescribing amendments to the provisions of Part II that relate to the computation of income and taxable income and to the provisions of Parts VII and VIII, such amendments to remain effective only if enacted by the Legislature at the first regular session after such amendments have been prescribed;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (f) prescribing rates of interest for the purposes of Part V.

(2) A regulation is, if it so provides, effective with reference ^{Idem} to a period before it was filed. 1972, c. 143, s. 175.

PART VII

TRANSITIONAL PROVISIONS

101.—(1) For the purposes of this Act, the *Income Tax Application Rules*, 1971 (Canada) shall, where applicable, be deemed to apply with necessary modifications to taxation years ended in 1972 and subsequent taxation years. 1972, c. 143, s. 176 (1); 1977, c. 58, s. 26.

(2) In this Act where reference is made to *The Corporations Tax Application Rules*, 1972, such reference shall mean the provisions made applicable by subsection (1). ^{Idem}

(3) In this Act where reference is made to *The Corporations Tax Act* such reference shall mean the provisions of *The Corporations Tax Act*, R.S.O. 1970, c. 91, as amended. ^{Effect of R.S.O. 1970, c. 91} 1972, c. 143, s. 176.

PART VIII

MISCELLANEOUS

102. *The Corporations Tax Act*, being chapter 91 of the Revised Statutes of Ontario, 1970, applies to corporations in respect of all taxation years ending before or during the year 1971 and this Act applies thereafter, provided that the provisions of this Act relating to the collection of taxes apply to the collection of taxes under *The Corporations Tax Act*. 1972, c. 143, s. 177 (1); 1977, c. 58, s. 26, *revised*. ^{Application of R.S.O. 1970, c. 91 as amended and this Act}

CHAPTER 98

Costs of Distress Act

1. No person making distress for rent or for a penalty and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the distress into effect, shall levy, take or receive any costs in respect of the distress other than those prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 92, s.1. Tariff of costs

2. No person making a seizure or sale of goods for default in payment of the principal money or interest secured by a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall levy, take or receive any greater or other fees or costs than those prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 92, s. 2. Tariff of costs under chattel mortgage

3. No costs shall be levied, taken or received for or in respect of exempted goods when they may not be lawfully sold, and, when sold, no greater sum in all than \$2 and actual and necessary payments for possession money shall be levied, taken or received for or in respect of costs and expenses of sale of such exempted goods. R.S.O. 1970, c. 92, s. 3. Costs in respect of seizure of exempted goods

4. No person shall make any charge for anything for which the Lieutenant Governor in Council has prescribed a fee under this Act unless it has been actually done. R.S.O. 1970, c. 92, s. 4. No charge for anything not done

5. No person aggrieved by a seizure or sale of goods under a chattel mortgage or by a distress for rent or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall be barred from any action or remedy that he would have had if this Act had not been passed. R.S.O. 1970, c. 92, s. 5. Right of action not affected

6.—(1) A person who makes a distress shall give a statement in writing signed by him of the demand and of the Furnishing statement of demand and costs

costs and expenses of the distress to the person on whose goods the distress was made and a person who makes a seizure under a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall give to the person in possession of the goods seized a statement in writing signed by him of the demand and of the costs charged in respect of the seizure and subsequent proceedings.

**Taxation of
costs of
distress**

(2) The person whose goods are distrained or seized or the person authorizing the distress or seizure or any other person interested, upon giving two days notice in writing, may have the costs and expenses of the bailiff or other person making the distress or seizure taxed by the clerk of the county or district court of the county or district in which the distress or seizure was made.

**Furnishing
bill of costs
to clerk for
taxation**

(3) The bailiff or person making the distress or seizure shall furnish the clerk with a statement of his costs and expenses for taxation at the time mentioned in the notice or at such other time as the clerk directs, and, in default of his so doing, he is not entitled to any costs or expenses.

**Duty of
clerk on
taxation**

(4) Upon the taxation the clerk shall, among other things, consider the reasonableness of any charges for removal and keeping possession of the goods, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath touching the same, and the person requiring the taxation shall pay the clerk a fee of 25 cents therefor.

Appeal

(5) An appeal may be made from such taxation to a judge of the county or district court. R.S.O. 1970, c. 92, s. 6.

**Fees and
costs**

7. The Lieutenant Governor in Council may prescribe fees and costs payable to persons performing the services mentioned in sections 1 and 2. R.S.O. 1970, c. 92, s. 7.

CHAPTER 99

County Court Judges' Criminal Courts Act

1.—(1) A judge of a county court or district court, authorized to preside at the sittings of the court of the general sessions of the peace, is constituted a court of record for the trial, out of sessions and without a jury, of any person committed to jail on a charge of being guilty of an offence for which such person may be tried at a court of general sessions of the peace and for which the person so committed consents to be tried out of sessions and without a jury, and the court so constituted has the powers and shall perform the duties respecting the speedy trial of indictable offences mentioned in the *Criminal Code* (Canada). R.S.O. 1970, c. 93, s. 1 (1); R.S.C. 1970, c. C-34
1979, c. 66, s. 14.

(2) A court constituted under this Act shall be called the county or district court judges' criminal court of the county or district in which it is held. ^{Style of court}

(3) The clerk of the peace for the county or district is the clerk of the court constituted under this Act. R.S.O. 1970, c. 93, s. 1 (2, 3). ^{Clerk of court}

2. Where under the *Criminal Code* (Canada) or the *Provincial Offences Act* an appeal is made to a county or district court, such appeal may be heard by a county or district judge in the court constituted under this Act. R.S.O. 1970, c. 93, s. 2. ^{Appeals R.S.O. 1980, c. 400}

CHAPTER 100

County Courts Act

1. In this Act, “chief judge” means the Chief Judge of the County and District Courts. Interpretation R.S.O. 1970, c. 94, s. 1.

2. There shall be in and for every county and district a court of record to be styled, in counties, the “County Court of the (County or Judicial District) of (*naming the county*)” and, in districts, the “District Court of the District of (*naming the district*)”. Court for each county and district R.S.O. 1970, c. 94, s. 2.

3. Every county court and district court shall be presided over by a judge in accordance with this Act and the *County Judges Act*. Judges R.S.O. 1970, c. 94, s. 3; 1979, c. 66, s. 15 (1). R.S.O. 1980, c. 101

4.—(1) The Lieutenant Governor in Council may appoint a clerk for each county court, and may appoint such persons to the staff of the clerk’s office as he considers necessary and may fix their position specifications, salary ranges, and terms and conditions of employment. Appointment of clerk and staff

(2) The Attorney General, or any public servant designated by him in writing for the purpose, may make temporary appointments to the staff of the clerk’s office for a term not exceeding one year. Temporary appointments R.S.O. 1970, c. 94, s. 4; 1972, c. 1, s. 9 (7).

5. The clerk shall give security for the due performance of the duties of his office in such sum and in such manner and form as the Lieutenant Governor in Council directs. Security R.S.O. 1970, c. 94, s. 5.

6. The clerk shall keep his office in the court house or, if there is no room available therein, at such place in the county or district as the judge directs. Place of office R.S.O. 1970, c. 94, s. 6.

7.—(1) In this section, “holiday” means, Holiday defined

(a) a holiday as defined in the *Interpretation Act*; R.S.O. 1980, c. 219

(b) Saturday;

(c) the day proclaimed as Civic Holiday in the municipality in which the court office is located;

- (d) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

Office hours

(2) Except on holidays when they shall be closed, county court and district court offices shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon. R.S.O. 1970, c. 94, s. 7.

Taxation of costs

8.—(1) Subject to subsection (2), the clerk shall tax costs, subject to revision and appeal therefrom as provided by the rules of court. 1971, c. 60, s. 1.

Idem

(2) Where costs are awarded on the Supreme Court scale, the party entitled thereto may require the costs to be taxed,

(a) in actions pending in the county courts of the Judicial District of Ottawa-Carleton and of the counties of Lanark, Leeds and Grenville, Stormont, Dundas and Glengarry, Russell, Renfrew or Prescott, by the taxing officer at Toronto or the local taxing officer at Ottawa;

(b) in actions pending in the county courts of the counties of Middlesex, Lambton, Elgin, Oxford or Perth, by the taxing officer at Toronto or the local taxing officer at London;

(c) in actions pending in all other county and district courts, by the taxing officer at Toronto.

Powers of taxing officers

(3) The taxing officer at Toronto has power to tax costs required to be taxed under subsection (2), and, for the purposes of taxations required under subsection (2), the local taxing officers at Ottawa and London have the same powers as the taxing officer at Toronto.

Appeals

(4) An appeal lies to a Supreme Court judge from any certificate of a taxation required under subsection (2).

Practice

(5) The practice on taxations and appeals therefrom and the fees payable thereon shall be the same as in the Supreme Court. R.S.O. 1970, c. 94, s. 8 (2-5).

Not to draw or advise on documents

9. The clerk shall not for fee or reward draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office, for which a fee is not expressly allowed by the tariff. R.S.O. 1970, c. 94, s. 9.

10.—(1) The special examiners of the Supreme Court are ^{Special examiners} officers of the county court and district courts, and they possess the like powers in county and district court cases as they possess in cases in the Supreme Court.

(2) The clerk of a county court or district court may act as ^{Idem} special examiner in any action in any county court or district court. R.S.O. 1970, c. 94, s. 10.

11. In each year the sittings of each county or district ^{Sittings} court shall be held at such time or times as is ordered by the chief judge, and the order of the chief judge shall be deemed to be a regulation to which the *Regulations Act* applies. ^{R.S.O. 1980, c. 446} R.S.O. 1970, c. 94, s. 11.

12. The judges of a county or district court may sit separately ^{Concurrent sittings} and concurrently for the despatch of the business of a sittings. R.S.O. 1970, c. 94, s. 12; 1979, c. 66, s. 15 (2).

13.—(1) Where the judge who is to hold a sitting is unable ^{Adjournment of sittings} to hold it at the time appointed, the sheriff or, in his absence, the deputy sheriff shall adjourn the court by proclamation to an hour on the following day to be named by him, and so from day to day until the judge is able to hold the court or until he receives other directions from the judge or from the chief judge.

(2) The sheriff shall forthwith notify the chief judge of the ^{Notice to chief judge} adjournment. R.S.O. 1970, c. 94, s. 13.

14.—(1) The county and district courts have jurisdiction ^{Jurisdiction} in,

(a) actions arising out of contract, expressed or implied, ^{contract} where the sum claimed does not exceed \$7,500;

(b) personal actions, except actions for libel, where the sum ^{tort} claimed does not exceed \$7,500;

(c) actions for trespass or injury to land where the sum ^{injury to land} claimed does not exceed \$7,500, unless the title to the land is in question, and in that case also where the value of the land does not exceed \$7,500 and the sum claimed does not exceed that amount;

(d) actions for the obstruction of or interference with ^{easements} a right-of-way or other easement where the sum claimed does not exceed \$7,500, unless the title to the right or easement is in question, and in that case also where

the value of the land over which the right or easement is claimed does not exceed that amount ;

recovery
of property

- (e) actions for the recovery of property, real or personal, including actions of replevin and actions of detinue where the value of the property does not exceed \$7,500 ;

mortgages

- (f) actions for the enforcement by foreclosure or sale or for the redemption of mortgages, charges or liens, with or without a claim for delivery of possession or payment or both, where the sum claimed to be due does not exceed \$7,500 ;

partnerships

- (g) partnership actions where the joint stock or capital of the partnership does not exceed in amount or value \$50,000 ;

legacies

- (h) actions by legatees under a will for the recovery or delivery of money or property bequeathed to them where the legacy does not exceed in value or amount \$7,500, and the estate of the testator does not exceed in value \$50,000 ;

equitable
relief

- (i) in all other actions for equitable relief where the subject-matter involved does not exceed in value or amount \$7,500 ; and

insolvency

- (j) actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$7,500.

Dispute of
jurisdiction
by
defendant

(2) Where a defendant intends to dispute the jurisdiction of the court on the ground that the action, though otherwise within the proper competence of the court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject-matter involved, or, in the cases mentioned in clauses (1) (g) and (h), because the joint stock or capital of the partnership exceeds in amount or value \$50,000 or the estate of the testator exceeds in value \$50,000, he shall in his appearance or in his statement of defence state that he disputes the jurisdiction of the court and the ground upon which he relies for disputing it, and, in default of his so doing, unless otherwise ordered by the court or a judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question, and in any such action tried or disposed of in a county or district court such court has the right to award all costs of or incidental to such

action on the scale of the Supreme Court in the same manner as if such action had been tried or disposed of in the Supreme Court.

(3) Where the notice mentioned in subsection (2) is given, the plaintiff may, within fifteen days after the entry of appearance if the defendant has given the notice in his appearance, or within fifteen days after the filing of the statement of defence if the defendant has given the notice in his statement of defence, on praecipe require all papers and proceedings in the action to be transmitted to the proper office of the Supreme Court in the county or district in which the action was brought, and the action is transferred to the Supreme Court when the papers and documents are so transmitted.

Transfer to
Supreme
Court by
plaintiff

(4) Where the plaintiff does not exercise the right conferred by subsection (3) within the period set out therein, the defendant may, within ten days after the expiration of such period, apply to a judge of the Supreme Court for an order transferring the action to that court.

Transfer to
Supreme
Court by
defendant

(5) If no application is made or praecipe issued under subsection (3) or (4) within the time prescribed therein or if an application made under subsection (4) has been refused, subject to subsection (6) and to section 15, the jurisdiction of the court to try and dispose of the action shall be deemed to be established.

When
jurisdiction
established

(6) Where the court or a judge makes an order under subsection (2) allowing the defendant to question the jurisdiction of the court, the court or judge may direct the action to be transferred to the Supreme Court upon such terms as to costs and otherwise as is considered just.

Terms of
order of
transfer

(7) Where an action is transferred to the Supreme Court under this section, if the plaintiff is awarded costs, unless otherwise ordered by the court or a judge, the costs shall after the date of the transfer be taxed according to the scale of the Supreme Court, whether or not the action is in fact within the proper competence of the county or district court. R.S.O. 1970, c. 94, s. 14.

Scale of
costs in
action
transferred

15.—(1) Where the defendant pleads a set-off or counterclaim, either party, within six days after the plaintiff has delivered his reply to the defence of set-off or his defence to the counterclaim, may apply to a judge of the Supreme Court for an order transferring the action and counterclaim to the Supreme Court on the ground that such set-off or counterclaim involves matter beyond the jurisdiction of the court.

Where set-off
or counter-
claim is
beyond
jurisdiction

Judge's order
transferring

(2) The judge, if satisfied that the set-off or counterclaim involves matter that exceeds the jurisdiction of the court, may order the transfer upon such terms as to costs and otherwise as he considers just.

Jurisdiction
established
where no
order of
transfer
made

(3) If no such application is made within the time limited or if an application so made has been refused, the jurisdiction of the court to hear and determine the whole matter involved in the set-off or counterclaim shall be deemed to be established. R.S.O. 1970, c. 94, s. 15.

Conse-
quences of
transfer

16. Where an action has been transferred to the Supreme Court or to another county or district court under this Act, it shall be in the same plight and condition as it was in at the time of the transfer, and thereafter may be proceeded with as if it had been commenced in the court into which it has been transferred. R.S.O. 1970, c. 94, s. 16.

Transfer
of
action to
court
having
jurisdiction

17. Where it appears in an action brought in a county or district court that such court has not cognizance thereof, but that the court of some other county or district has jurisdiction to try it, the judge before whom it is pending may, at any time before or during the trial thereof, order it to be transferred to such other county or district court upon such terms as to costs and otherwise as he considers just. R.S.O. 1970, c. 94, s. 17.

Prohibition
not to lie

18. Prohibition does not lie in respect of an action or counterclaim that may be transferred under this Act to the Supreme Court, or from one county or district court into another county or district court. R.S.O. 1970, c. 94, s. 18.

Abandon-
ment of so
much of
claim as is
in excess of
jurisdiction

19.—(1) Where it appears that the claim of the plaintiff is for an amount beyond the jurisdiction of the court, he may, by writing signed by him and filed, upon such terms as the judge considers proper as to costs and otherwise, abandon the excess, and in such case the plaintiff shall forfeit such excess and is not entitled to recover it in any other action.

Idem

(2) A defendant has the like right in respect of his set-off or counterclaim. R.S.O. 1970, c. 94, s. 19.

Relief that
may be
granted

20. The court has, as regards all causes of action within its jurisdiction, power to grant and shall grant such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant vesting orders and to relieve against penalties and forfeitures, but does not have power to remove a trustee or to appoint a new trustee under the *Trustee Act*, and shall give such and the like effect to every ground of defence or counterclaim, equitable or legal, by the same

R.S.O. 1980,
c. 512

mode of procedure and in as full and ample a manner as might and ought to be done in the like case by the Supreme Court. R.S.O. 1970, c. 94, s. 20.

21. Except in the cases mentioned in subsections 14 (3), (5) and (6) and in section 15, no action shall be removed by order of *certiorari* or otherwise into the Supreme Court unless the debt or damages claimed amount to more than \$100, and then only on affidavit and by leave of a judge of the Supreme Court, if it appears to the judge fit to be tried in the Supreme Court, and upon such terms as to costs, giving security for debt or costs and otherwise as he considers just. R.S.O. 1970, c. 94, s. 21.

In what cases and on what conditions causes are removable

22.—(1) Except by consent of the parties or unless the place of trial is changed, actions under clauses 14 (1) (c) and (d) shall be brought and tried in the court of the county or district in which the land is situate, and actions under clause 14 (1) (g) shall be brought and tried in the court of the county or district where the partnership has or had its principal place of business, and actions under clause 14 (1) (h) shall be brought and tried in the court of the county or district where letters probate or of administration have issued or where the deceased resided at the time of his death.

Venue for certain actions

(2) Actions for the recovery of real property shall be brought and tried in the court of the county or district in which the real property sought to be recovered is situate. R.S.O. 1970, c. 94, s. 22.

Actions for the recovery of real property

23. An action by or against a judge shall not be brought in the court of which he is judge, but shall be brought in the court of a county or district adjoining that in which he resides. R.S.O. 1970, c. 94, s. 23.

Where action against judge

24. Subject to the *Judicature Act* and to the rules of court, the practice and procedure of the Supreme Court apply to the county and district courts. R.S.O. 1970, c. 94, s. 24.

Procedure
R.S.O. 1980,
c. 223

25. Where the plaintiff fails to recover judgment by reason that the court has not jurisdiction, the court nevertheless has jurisdiction over the costs of the action or other proceeding and may order by and to whom they shall be paid. R.S.O. 1970, c. 94, s. 25.

Costs where action fails for want of jurisdiction

26. Every county and district court has the like power as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court and they have the like force and effect as writs and process issued out of the Supreme Court. R.S.O. 1970, c. 94, s. 26.

Power to enforce judgments and orders

Contempt
of court

27. Every county and district court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders, but the fine shall not in any case exceed \$100 nor shall the imprisonment exceed six months. R.S.O. 1970, c. 94, s. 27.

References:
generally

28.—(1) Where it is proper to direct a reference, it may be made to any officer to whom a reference may be directed by the Supreme Court or to the clerk of the court.

to judge

(2) Where the judge of the court is local master, the reference may be made to himself, but no fees shall be charged by him on such reference.

fees and
costs

(3) Upon every such reference the fees to be paid and the costs to be allowed, whether as between party and party or solicitor and client, shall be according to the county court tariff. R.S.O. 1970, c. 94, s. 28.

Powers of
judge as to
reference

29.—(1) In an action in a county or district court the judge has the same powers with regard to the making of an order of reference as may be exercised by a judge of the Supreme Court in an action therein.

Appeal from
referee

(2) An appeal, in like manner and within the same time as in like cases in actions in the Supreme Court, lies from the report on the reference to the judge of the county or district court in chambers, who has upon the appeal the same power as may be exercised by a judge in like cases in the Supreme Court.

Appeal to
Court of
Appeal

(3) An appeal lies from any order, judgment or decision of the judge of a county or district court, and from the report upon a reference made under subsection 28 (2) to the Court of Appeal, and the proceedings and practice on the appeal as to staying proceedings and otherwise shall be similar to the proceedings and practice relating to an appeal from a judgment under section 31.

Except
where the
Crown is
a party

(4) Nothing in this section empowers the judge of a county or district court to refer any proceeding to which Her Majesty is a party, or any question or issue in any such proceeding, to an official referee, without the consent of Her Majesty. R.S.O. 1970, c. 94, s. 29.

Rehearing

30.—(1) Where the judge before whom an action is tried, either with or without a jury, dies before giving judgment, or having reserved his judgment after having heard the evidence does not deliver judgment within six months thereafter, any party may, upon notice to all other parties,

apply to the chief judge for an order directing that the action be reheard by such judge of a county or district court as he designates.

(2) An order made under subsection (1) shall name the place ^{Idem} where the action shall be set down and reheard, and in making such order the chief judge may give such other directions as he considers fit.

(3) No further evidence shall be received upon such re- ^{Further evidence} hearing unless by leave of the court.

(4) No proceedings in the action shall thereafter be taken ^{Further proceedings} in the county court without the order of the chief judge after notice.

(5) Upon such rehearing, the evidence, exhibits and papers ^{Judgment on rehearing} used at the trial shall be read and after argument by counsel the presiding judge shall deal with the action as on an original trial and shall direct that judgment be entered by the county court clerk in accordance with his findings.

(6) The costs of the rehearing shall be fixed by the judge ^{Costs of rehearing} presiding at the rehearing, who shall also direct by whom they are to be paid.

(7) An appeal lies from such judgment or finding in the ^{Appeal} same manner and on the same terms as if the judgment had been pronounced at a trial in the county court. R.S.O. 1970, c. 94, s. 30.

31. Any party to a cause or matter may appeal to the ^{Appeal to Court of Appeal} Court of Appeal from any judgment directed to be entered at or after the trial or from a refusal to enter a judgment. R.S.O. 1970, c. 94, s. 31.

32. Where a party does not appear at the trial, a motion ^{Motion for new trial} for a new trial may be made before the judge, but in all other cases a motion for a new trial shall be made before the Court of Appeal. R.S.O. 1970, c. 94, s. 32.

33. Where in any Act an appeal to the county court is ^{Powers on statutory appeals} provided for, the county court has the same powers upon the hearing and disposition of the appeal as the Court of Appeal has under the *Judicature Act* in civil matters, subject to any express provision in the Act that provides for the appeal. 1978, c. 102, s. 1. ^{R.S.O. 1980, c. 223}

34.—(1) An appeal lies to the Court of Appeal at the instance ^{Appeal from decision of judge} of any party to a cause or matter from,

- (a) every decision or order of a judge in court or chambers under any of the powers conferred upon him by the rules of court or by a statute, unless provision is made therein to the contrary;
- (b) every decision or order in a cause or matter disposing of any right or claim;
- (c) any decision or order of a judge, whether pronounced or made at the trial, or on appeal from taxation or otherwise, that has the effect of depriving the plaintiff of county court costs on the ground that his action is of the proper competence of the small claims court, or of entitling him to county court costs on the ground that the action is not of the proper competence of the small claims court.

Where
section not
applicable

(2) This section does not apply to an order or decision that is not final in its nature but is merely interlocutory or where jurisdiction is given to the judge as *persona designata*. R.S.O. 1970, c. 94, s. 33.

Trans-
mission of
pleadings,
etc.

35.—(1) The clerk shall, at the request of the appellant, transmit to the proper officer of the Supreme Court the pleadings in the cause and all motions or orders made, granted or refused therein together with the judgment or decision and all other papers in the cause affecting the question raised by the appeal.

Evidence,
etc., to be
certified

(2) The evidence and all objections and exceptions thereto, together with the judge's charge to the jury where the trial has been held with a jury, shall be certified under the hand of the stenographic reporter who was present at the trial. R.S.O. 1970, c. 94, s. 34.

Staying
proceedings
on appeal

36. Subject to section 37, the judge of the county or district court appealed from may, upon application to him, stay proceedings in the action to enable the appeal to be brought, upon such terms and for such time as he considers just. R.S.O. 1970, c. 94, s. 35.

Setting
down
appeals

37. The appeal shall be made within the time and in the manner prescribed by the rules of court. R.S.O. 1970, c. 94, s. 36.

Powers to
amend and
receive
further
evidence

38.—(1) The Court of Appeal has all the powers and duties, as to amendment and otherwise, of the judge appealed from, and full discretionary power to receive further evidence upon questions of fact, either by oral examination before the court or as may be directed.

(2) Such further evidence may be given without special ^{Further evidence} leave as to matters that have occurred after the date of the judgment, order or decision complained of.

(3) Except as provided by subsection (2), upon an appeal ^{Idem} from a judgment, order or decision given upon the merits at the trial or hearing, such further evidence shall be admitted on special grounds only, and not without the special leave of the court. R.S.O. 1970, c. 94, s. 37.

39.—(1) On an appeal, the Court of Appeal may set aside the judgment and direct any other judgment to be entered ^{Order of Court of Appeal on appeal} or may direct a new trial to be had, and may make such other order as to costs and otherwise as appears just.

(2) The decision of the Court of Appeal shall be certified ^{Idem} by the registrar of the court to the clerk of the court with whom the judgment or order appealed from was entered, who shall thereupon cause the decision to be entered in the proper judgment or order book, and all subsequent proceedings may be taken thereupon as if the decision has been given in the court below. R.S.O. 1970, c. 94, s. 38.

40. In the case of any decision or order made in an action ^{Further rights of appeal} by a county or district court judge in respect of which an appeal is not provided in section 34, an appeal lies to a judge of the Supreme Court, and the practice and procedure governing appeals from the Master of the Supreme Court apply to every such appeal. R.S.O. 1970, c. 94, s. 39.

41. Subject to the approval of the Lieutenant Governor ^{Rules} in Council, the Rules Committee may,

- (a) make rules for regulating the practice and procedure in the county and district courts;
- (b) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;
- (c) prescribe forms and provide for their use. R.S.O. 1970, c. 94, s. 40; 1979, c. 49, s. 2.

CHAPTER 101

County Judges Act

1. In addition to the judges otherwise provided for in this Act, a Chief Judge of the County and District Courts, herein referred to as the chief judge, and an Associate Chief Judge of the County and District Courts may be appointed, and they shall have all the powers of a judge throughout Ontario. 1977, c. 44, s. 1.

2.—(1) A judge may be appointed for the county court of each of the counties and for the district court of each of the provisional judicial districts. R.S.O. 1970, c. 95, s. 2.

(2) Where another judge is appointed in accordance with section 3 or 4 for a county court or a district court or is designated under section 4 to reside in the jurisdiction of the court, the judge appointed for the court in accordance with subsection (1) shall be known as the senior judge of the court. 1979, c. 66, s. 1.

3.—(1) An additional judge may be appointed for the county court of each of the judicial districts of Niagara North and Niagara South and for the district court of each of the districts of Sudbury and Thunder Bay. R.S.O. 1970, c. 95, s. 3 (1); 1973, c. 136, s. 1; 1979, c. 66, s. 2, *part*.

(2) Two additional judges may be appointed for the county court of the Judicial District of Ottawa-Carleton and of the County of Essex. R.S.O. 1970, c. 95, s. 3 (2); 1971, c. 4, s. 1 (1); 1979, c. 66, s. 2, *part*.

(3) Three additional judges may be appointed for the county court of each of the counties of Middlesex and Wentworth. R.S.O. 1970, c. 95, s. 3 (3); 1971, c. 4, s. 1 (2); 1979, c. 66, s. 2, *part*.

(4) Fourteen additional judges may be appointed for the county courts of the Judicial Districts of York and York Region. R.S.O. 1970, c. 95, s. 3 (4); 1979, c. 66, s. 2, *part*.

4.—(1) In addition to the judges mentioned in section 2 and the judges mentioned in section 3, such judges as are considered necessary may be appointed,

- (a) for the county or district court of any county or district that the Lieutenant Governor in Council designates; or

(b) for the county and district courts of the counties and districts of Ontario. R.S.O. 1970, c. 95, s. 4 (1); 1972, c. 86, s. 1; 1979, c. 66, s. 3, *part*.

Residence

(2) A judge appointed for the county and district courts of the counties and districts of Ontario shall reside in the county court district or district court district that is designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 95, s. 4 (2); 1979, c. 66, s. 3, *part*.

Super-
numerary
judges

5.—(1) For each office of judge of the county and district courts of the counties and districts of Ontario there shall be the additional office of supernumerary judge held by a judge of such court who has elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that court.

R.S.C. 1970,
c. J-1

Jurisdiction

(2) Any reference in this or any other Act or in a regulation to a judge includes a supernumerary judge. 1976, c. 15, s. 1; 1979, c. 66, s. 4.

Rank and
precedence

6. The chief judge has rank and precedence over all other judges and, after the associate chief judge, the judges and supernumerary judges have rank and precedence among themselves according to seniority of appointment. 1977, c. 44, s. 2; 1979, c. 66, s. 5.

Supervision
by senior
judge

7. The senior judge of a county or district court may, subject to the authority of the chief judge, regulate and supervise the other judges of the court in the exercise of their authority. 1979, c. 66, s. 6.

Not to
practise

8. A judge shall not, directly or indirectly, practise as counsel or solicitor or act as a notary public or conveyancer. R.S.O. 1970, c. 95, s. 7; 1979, c. 66, s. 7.

Illness
or death
of judge

9. Where a judge who has appointed a time and place for the hearing of an application, proceeding or matter becomes ill or dies, or for any other reason is unable to attend at the time and place appointed, the application, proceeding or matter may be heard by another judge of the same county or district court or by a judge who may for the time being be acting as a judge of such court. R.S.O. 1970, c. 95, s. 8.

Disposition
of fees

10.—(1) All fees payable by the parties to a proceeding before the judge, or upon an order or certificate made or given by him, shall form part of the Consolidated Revenue Fund, and, except as hereinafter provided, a judge of a county or district court is not entitled to receive any fees whatever under any Act of the Legislature.

(2) Nothing in this section applies to or affects the payment of any allowance or fees to a judge of a county or district court with respect to any office that may be lawfully held by him in addition to his office as judge to which an annual allowance or salary is attached or in the performance of his duties as an arbitrator or referee under any statute designating him by his name of office as an arbitrator or referee.

Exceptions
as to arbi-
trators, etc.

(3) Nothing in this section affects or prevents the payment to a judge of a county or district court of his travelling or other expenses when called upon to perform any duty outside the county or district town of the county or district. R.S.O. 1970, c. 95, s. 9.

Travelling
expenses not
affected

11. Every judge shall take and subscribe the following oath before the chief judge or a judge designated by him:

Oath of
office

I,, do swear that I will,
truly and faithfully, according to my skill and knowledge, execute
the several duties, powers and trusts of judge of the
Court of theof.....
So help me God.

R.S.O. 1970, c. 95, s. 10; 1979, c. 66, s. 8.

12. Where there is more than one judge available in a county or district, the county or district court, the court of general sessions of the peace and the small claims courts may sit at the same time and the business in them may be proceeded with simultaneously. R.S.O. 1970, c. 95, s. 11.

Simul-
taneous
sittings

13. The chief judge may empower a judge of a county or district court to hear and dispose of or otherwise deal with any matter depending in his court at any place either within or outside the county or district, as the case may be. R.S.O. 1970, c. 95, s. 12; 1979, c. 66, s. 9.

Place of
hearing

14.—(1) The Lieutenant Governor in Council may appoint one or more court reporters for the local courts of any county or provisional judicial district, and, where more than one is appointed for a county or provisional judicial district, the Lieutenant Governor in Council may designate one of them as the senior court reporter. R.S.O. 1970, c. 95, s. 13 (1).

Court
reporters,
appointment

(2) Every court reporter shall be under the direction of the judge or senior judge or, if the senior judge is absent, of the other judges of the county or district for the local court of which he is appointed, and, where a senior court reporter is designated, the other court reporter or reporters shall also be subject to the direction of the senior court reporter. R.S.O. 1970, c. 95, s. 13 (2); 1979, c. 66, s. 10.

Direction

County
court
districts

15. The Lieutenant Governor in Council may order that a county or two or more counties shall form a county court district for the purposes of this Act or that a provisional judicial district or two or more provisional judicial districts shall form a district court district for the purposes of this Act. R.S.O. 1970, c. 95, s. 14.

16.—(1) The chief judge shall be president of the county and district courts.

Chambers

(2) The chief judge shall occupy chambers at Toronto.

Absence,
etc.

(3) The chief judge may designate one of the other judges to act in his place for all purposes during his absence from Ontario or illness. R.S.O. 1970, c. 95, s. 15 (1-3).

To supervise
arrangement
of sittings
of court

(4) To ensure the dispatch of business of the various courts, including chambers, that are presided over by the judges of the county and district courts, the chief judge shall have general supervisory powers over arranging the sittings of such courts, including chambers. R.S.O. 1970, c. 95, s. 15 (4); 1973, c. 136, s. 3 (1).

Meetings
of judges

(5) For the purpose of arranging the sittings of the various courts and considering matters relating to the courts and the judges, the chief judge shall convene a meeting of the judges of each county and district court district at least once in each year and shall preside thereat. R.S.O. 1970, c. 95, s. 15 (5); 1979, c. 66, s. 11, *part*.

Idem

(6) The chief judge and the judges of the county and district court district shall discuss and consider the time and other requirements of the various courts in the county or district court district, having regard to the efficient administration of justice in Ontario, and shall make such arrangements as may be necessary or proper for the holding of such courts, including chambers, and the transaction of such business as are customarily held and transacted by the judges of the county or district court district with power in the chief judge to make such readjustment or reassignment as he considers necessary or proper from time to time. R.S.O. 1970, c. 95, s. 15 (6); 1979, c. 66, s. 11, *part*.

Rotation

(7) In the arrangement of the courts and the assignment of judges thereto, regard shall be had to,

(a) the desirability of rotating the judges within each county and district court district; and

(b) the greater volume of judicial work in certain of the counties and districts,

but no judge shall be required to sit outside his county or district court district, as the case may be, without his consent. R.S.O. 1970, c. 95, s. 15 (7); 1979, c. 66, s. 11, *part*.

(8) For the purpose of considering any matter relating to the administration of justice in the county and district courts and other courts presided over by the county and district court judges, the chief judge shall assemble at Toronto once in every year all the judges of the county and district courts and he shall preside over such meeting. R.S.O. 1970, c. 95, s. 15 (8); 1979, c. 66, s. 11, *part*. Council of judges

(9) For the purposes of this section, a reference to a court or a judge of a county or district court district includes the small claims courts and surrogate courts in the county or district court district and the judges thereof, respectively. Small claims and surrogate courts and judges
1973, c. 136, s. 3 (2).

17.—(1) A judge may perform any judicial or other function or duty or exercise any power in any county or district in the same manner and to the same effect as a judge of that county or district. Jurisdiction outside county or district
1973, c. 136, s. 4, *part*; 1979, c. 66, s. 12, *part*.

(2) Any judge, with the approval of the chief judge, may perform any judicial or other function or duty or exercise any power under subsection (1) notwithstanding that he is not present in the county or district. Idem
1973, c. 136, s. 4, *part*; 1979, c. 66, s. 12, *part*.

18. Where a vacancy occurs in the office of the judge of the county or district court in a county or district in a court district and the Lieutenant Governor declares that, owing to the lack of sufficient business, it is unnecessary that the vacancy be filled, the remaining judges in the court district shall arrange for the performance of the duties of the judge of the county or district court of the county or district in which the vacancy occurs by one of themselves or by some other person competent by law in that behalf, and every judge or other person so acting has the like powers and shall perform the like duties as a judge or other person competent by law in that behalf appointed or authorized for that purpose may exercise and perform under any statute of Ontario in the county or district in which the vacancy has occurred. R.S.O. 1970, c. 95, s. 17. Where vacancy occurs and business does not warrant new appointment

19. Where a judge resigns his office or is appointed to any other court or elects to hold office only as a supernumerary judge or ceases to hold office by reason of his having reached the age of retirement, he may at any time within eight weeks after such event give judgment in any cause, action or matter previously tried by or heard before him, as if he had continued in office. 1973, c. 136, s. 5; 1976, c. 15, s. 3. Judgment after leaving office

CHAPTER 102

Credit Unions and Caisses Populaires Act

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

(a) “articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, articles of amendment, memorandum of association, a special Act or other instrument by which a credit union is incorporated and includes any amendment thereto;

(b) “auditor” means a person who is a public accountant licensed under the *Public Accountancy Act*;

R.S.O. 1980,
c. 405

(c) “by-law” means a by-law approved under this Act, and includes any amendment or revocation of a by-law approved under this Act;

(d) “capital” means the outstanding amount that has been received from members on account of shares;

(e) “certificate of incorporation” includes the memorandum of association, a special Act or any other instrument by which a credit union is incorporated;

(f) “court” means the Supreme Court of Ontario;

(g) “credit union” means a corporation incorporated as a credit union or caisse populaire under this Act or a predecessor of this Act;

(h) “debt obligation” means a bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

- (i) "deposit" includes all sums placed on deposit with a credit union;
- (j) "Director" means the Director of Credit Unions of the Ministry of Consumer and Commercial Relations;
- (k) "financial statement" means a financial statement referred to in section 71;
- (l) "league" means a corporation incorporated as a credit union league or federation under this Act or a predecessor of this Act;
- (m) "member" means a person who is a member or enrolled as a member of a credit union under this Act, the articles and the by-laws of the credit union governing membership;
- (n) "Minister" means the Minister of Consumer and Commercial Relations;
- (o) "officer" means the president, any vice-president, treasurer, secretary, manager, assistant treasurer, assistant secretary, assistant manager and any employee who has authority to approve loans and any employee of a credit union who reports directly to the board of directors;
- (p) "personal representative" where used with reference to holding shares or having deposits in that capacity, means an executor, administrator, guardian, tutor, trustee, receiver or liquidator, or the committee of or curator to a mentally incompetent person;
- (q) "regulations" means the regulations made under this Act;
- (r) "related person", where used to indicate a relationship with any person, means any spouse, son or daughter of that person, or any relative of that person or of his spouse, son or daughter who has the same home as that person;
- (s) "special resolution" means a resolution that is not effective until it is passed by the board of directors of the credit union and confirmed, with or without variations, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose;

(t) "Superintendent" means the Superintendent of Insurance;

(u) "surplus" means the aggregate balances of undivided earnings, statutory reserve and other reserves.

(2) For the purposes of this Act, two or more persons holding the same share or shares jointly shall be considered as one member. 1976, c. 62, s. 1. ^{Joint shares}

2.—(1) There shall be a Director of Credit Unions appointed by the Lieutenant Governor in Council, who shall exercise the powers and shall perform the duties conferred or imposed on him by this Act or the regulations under the supervision of the Superintendent. ^{Director of Credit Unions}

(2) The *Corporations Act* does not apply to credit unions or credit union leagues. 1976, c. 62, s. 2. ^{Application of R.S.O. 1980, c. 95}

INCORPORATION

3.—(1) A credit union may be incorporated under this Act by articles of incorporation for the objects stated in section 11 and the incorporation is subject to the approval of the Minister. ^{Incorporation}

(2) Any number of natural persons, not fewer than twenty, who are of the age of eighteen years or more, may apply to be incorporated as a credit union by signing and delivering to the Minister, in duplicate, articles of incorporation in the form prescribed by the regulations together with two copies of the proposed by-laws of the credit union. ^{Application}

(3) The articles of incorporation shall set out: ^{Articles of incorporation}

1. The name of the credit union to be incorporated.
2. The place in Ontario where the head office of the credit union is to be located giving the municipality and the county or district or, where the head office is to be located in a territory without municipal organization, the geographic township and district, if any.
3. The name of each of the incorporators and residence address of each.
4. The number of directors of the credit union, which shall be not fewer than five, and the name and residence address, giving the street and number, if any, of each person who is a first director of the credit union.

5. Any other matter required by this Act or the regulations to be set out in the articles.

Idem

(4) The articles may set out any provision that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the credit union.

Affidavits

(5) The signature of each incorporator and each first director and the fact that each incorporator and each first director is of the age of eighteen years or more shall be verified by affidavit.

Director
may direct
amendment
of by-laws

(6) The proposed by-laws shall be in accordance with section 16 and if the Director finds the proposed by-laws repugnant to this Act he may direct an amendment before the application is proceeded with.

Report to
Minister

(7) The Director shall inquire into the circumstances, sufficiency and regularity of the articles of incorporation and accompanying proposed by-laws delivered to the Minister and may require any matter to be verified under oath and shall report thereon to the Minister.

Reasons

(8) Where the Director reports to the Minister that the articles of incorporation should not be filed, his report shall include the reasons therefor and a copy of his report shall be delivered to the incorporators.

Submissions
to Minister

(9) The incorporators may, within fifteen days after receiving the report and reasons of the Director under subsection (8), make written submissions to the Minister in respect thereof.

Issuance of
certificate of
incorporation

(10) After considering the report of the Director and the submissions, if any, of the incorporators, the Minister may, in his discretion and after all prescribed fees have been paid,

(a) endorse on the duplicate of the articles the words "Filed" and the day, month and year of the filing thereof;

(b) file one of the duplicates in his office; and

(c) issue to the incorporators or their agent a certificate of incorporation to which he shall affix the other duplicate.

Effect of
incorporation

(11) A credit union comes into existence upon the date set forth in its certificate of incorporation and the certificate of incorporation, the articles of incorporation, and the by-laws

of the credit union, together with this Act, constitute the charter of the credit union.

(12) A certificate of incorporation is conclusive proof that all conditions precedent required to be performed by the incorporators have been complied with and that the credit union has been incorporated under this Act, except in a proceeding under section 122. 1976, c. 62, s. 3.

4.—(1) No credit union shall be incorporated under a name identical with that of any other credit union or of any corporation or organization or under a name so nearly resembling that of any other credit union, corporation or organization as, in the opinion of the Minister, to be likely to deceive or under a name that may otherwise, in the opinion of the Minister, be objectionable on public grounds.

(2) If a credit union, through inadvertence or otherwise, has acquired a name contrary to subsection (1), the Minister may, after he has given the credit union an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the credit union to the name specified in the certificate, and upon issuance of the certificate of amendment, the articles are amended accordingly. 1976, c. 62, s. 4.

5.—(1) The name of a credit union shall include the words "credit union" or "caisse populaire" as part thereof.

(2) The name of a credit union shall have the words "Limited" or "Limitée", or "incorporated" or "incorporée", or its corresponding abbreviation "Ltd", "Ltée", or "Inc" as the last word thereof.

(3) Notwithstanding subsection (1), a credit union incorporated under a predecessor of this Act may continue to use the name under which it was incorporated. 1976, c. 62, s. 5.

6. Notwithstanding section 5, a credit union may use its name in such form and in such language as the articles provide and as the Minister approves. 1976, c. 62, s. 6.

7. A change of name of a credit union does not affect its rights and obligations. 1976, c. 62, s. 7.

8. Any person, not being a credit union or league to which this Act applies, who carries on business under a name or title in which the words "credit union" or "caisse populaire" are used is guilty of an offence. 1976, c. 62, s. 8.

9.—(1) A credit union shall have a seal, which shall be adopted and may be changed by resolution of the directors.

Idem (2) The name of the credit union shall appear in legible characters on the seal. 1976, c. 62, s. 9.

Head office **10.**—(1) A credit union shall at all times have its head office in Ontario at the place where its articles provide.

Change (2) A credit union may by by-law change the geographic location of its head office to another place in Ontario if such change would better serve its purpose and objects. 1976, c. 62, s. 10.

Objects of credit unions **11.**—(1) The articles of a credit union shall state its objects and purposes as being the promotion of co-operative enterprise, the facilitating of the accumulation of savings and the creation of a source of credit for its members at conscionable rates of interest and the provision of full financial services for its members and every credit union shall be deemed to have such objects in its articles.

Ancillary powers (2) For the purpose of carrying out its objects, subject to the other provisions of this Act, the regulations, the articles and the by-laws of the credit union, every credit union has power as incidental and ancillary to its objects,

1. to receive moneys on deposit from members and as payment for shares;
2. to make loans to members, with or without security;
3. to make loans to other credit unions, where the loans are approved by the Ontario Share Deposit Insurance Corporation;
4. to deposit moneys with, invest in shares of, or make loans to, any league;
5. to make donations and gifts out of the surplus income or any undivided earnings for the purpose of advancing the interest of the credit union or of credit unions generally and for charitable purposes;
6. to purchase, lease, or take in exchange, hire or otherwise acquire any personal property and any right or privilege the credit union considers necessary or convenient for the purpose of the credit union;
7. to invest funds of the credit union;
8. where authorized to do so by a special resolution, to sell, lease, exchange or otherwise dispose of all or substantially all the property of the credit union for such consideration as the credit union considers appropriate;

9. to construct, maintain and alter any buildings or works necessary for its objects ;
10. to lease and, where authorized by by-law, to acquire by purchase or otherwise and hold any real property or interest therein necessary for its present or future use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it ;
11. to take, hold, alienate, realize on, or otherwise dispose of any real or personal property that has been mortgaged or pledged to the credit union by way of security for, or conveyed to it in satisfaction of loans made in the course of business or otherwise purchased for the purpose of avoiding a loss to the credit union ;
12. to draw, make, accept, endorse, execute, discount and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments ;
13. subject to such conditions as are prescribed by the regulations, to establish and operate branch offices to provide credit union services ;
14. to pay all costs and expenses of, or incidental to, the incorporation and organization of the credit union ;
15. to establish and support or aid in the establishment and support of or the subscription to, associations, institutions, funds or trusts for the benefit of employees or former employees of the credit union or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects ;
16. to adopt means of making known the services of the credit union, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals or by granting prizes, rewards and making donations ;

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c. 249

17. to deposit money in chartered banks, the Province of Ontario Savings Office, or loan companies and trust companies registered under the *Loan and Trust Corporations Act*;
18. to contract and sue and be sued in the corporate name;
19. to purchase group insurance for its members;
20. to perform any of the things authorized by this section as principal or agent and either alone or in conjunction with others;
21. to perform all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the credit union;
22. to have perpetual succession;
23. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;
24. to acquire and hold shares in any other company having objects altogether or in part similar to those of the credit union or carrying on any business capable of being conducted so as to benefit the credit union;
25. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the credit union in the ordinary course of its business;
26. to provide safekeeping facilities and services for personal property;
27. to provide services for the collection and payment of moneys from and on behalf of its members;
28. to provide such programs and services for its members as in the opinion of the board of directors may assist the members to meet their financial or social needs;
29. subject to the approval of the Director, to accept custody of assets for specific purposes or under specific terms and conditions and to act as an agent

to carry out such purposes, such purposes to include, but not be restricted to, the custody of funds deposited under registered retirement savings plans and registered home ownership savings plans.

(3) Any of the powers set out in subsection (2) may be withheld or limited by the articles. ^{Limitation of powers}

(4) Every credit union may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. 1976, c. 62, s. 11. ^{Power to act outside Ontario}

LEAGUES

12.—(1) Ten or more credit unions may be incorporated as a league or federation for the object and purpose of, ^{Leagues}

- (a) protecting and advancing the credit unions that are members of the league;
- (b) providing encouragement and assisting in programs and activities contributing to the growth and development of member credit unions;
- (c) conducting training programs for the general improvement of managers, employees and members of the board of directors and committees of member credit unions;
- (d) arranging for pension plans, group bonding and group insurance of all kinds for the officers, employees and members of credit unions and assisting in repayment of loans made by credit unions to their members;
- (e) receiving moneys from their member credit unions or the Ontario Share Deposit Insurance Corporation, either as payment on shares or as deposits;
- (f) making loans to credit unions that are members of the league;
- (g) providing services to or for its member credit unions that, in the opinion of the directors of the league, are incidental or conducive to the sound operation or to the attaining of the purposes of its members.

(2) Any competent person authorized by a league may examine into the affairs of any credit union that is a member of the league and for such purpose he shall be given access ^{Examination by league}

to all books, records and other documents of the credit union and he may make whatever inquiries are necessary to ascertain its true condition and its ability to provide for the payment of its liabilities as they become due, and the officers and employees of the credit union shall facilitate him in his examination and inquiry.

Act to
apply to
leagues

(3) The provisions of this Act applicable to credit unions apply with necessary modifications to leagues and their incorporation except where inconsistent with this section, but the Lieutenant Governor in Council may by regulation declare that any provision of this Act does not apply to leagues.

Ancillary
powers

(4) Every league has power as incidental and ancillary to its objects,

(a) to apply to and enter into any agreement with the Canada Deposit Insurance Corporation, the Ontario Share and Deposit Insurance Corporation, the Government of Canada, the Government of Ontario, a chartered bank or other corporation or person, to obtain loans or other financial assistance;

(b) to act as agent or subagent for primary or secondary distribution of bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or any province or municipal corporation in Canada and for that purpose trade in such bonds, debentures or other evidences of indebtedness to the extent necessary;

(c) to become a member of, buy shares in, deposit money with or borrow money from any other league or any co-operative credit society or association as defined in the *Co-operative Credit Associations Act* (Canada) or any other like institution incorporated under the laws of Canada or any province;

(d) when authorized by the Director, to establish, arrange for and maintain trust funds for the benefit of the member credit unions;

(e) to invest in the fully paid shares of,

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(i) any corporation registered under the *Loan and Trust Corporations Act*, or

(ii) with the approval of the Superintendent, any company incorporated to carry on any other business reasonably ancillary to the business of a credit union or a league,

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but if such investment exceeds 30 per cent of the voting common shares of a corporation, the league shall own at least 51 per cent of the voting common shares of the corporation;

(f) to provide such other services as may be authorized by the regulations.

(5) A league may accept and exercise all rights, powers, privileges and immunities conferred on it by the *Co-operative Credit Associations Act* (Canada). ^{Application of R.S.C. 1970, c. C-29}

(6) Any credit union that is a member of a league may withdraw from membership if authorized by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose. 1976, c. 62, s. 12. ^{Withdrawal}

CONTRACTS

13.—(1) No act of a credit union and no transfer of real or personal property to or by a credit union, otherwise lawful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the credit union was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted, ^{Acting outside powers}

(a) in a proceeding against the credit union by a member under subsection (2);

(b) in a proceeding by the credit union, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through members in a representative capacity, against a director or officer or former director or officer of the credit union; or

(c) as cause for the cancellation of the certificate of incorporation of the credit union.

(2) A member of a credit union may apply to the court for an order to restrain the credit union from doing any act or transferring or receiving the transfer of real or personal property on the ground that the credit union lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the credit union from doing the act or transferring or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the credit union is a party, ^{Restraining order}

- (a) all the parties to the contract shall be parties to the proceeding;
- (b) the court in granting the order may set aside the contract and allow the credit union or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract. 1976, c. 62, s. 13.

Contracts
in writing
under seal

14.—(1) A contract that if entered into by an individual person would by law be required to be in writing and under seal may be entered into on behalf of a credit union in writing under the seal of the credit union.

Contracts
in writing

(2) A contract that if entered into by an individual person would by law be required to be in writing signed by the parties to be charged therewith may be entered into on behalf of a credit union in writing signed by any person acting under its express authority.

Parol
contracts

(3) A contract that if entered into by an individual person would by law be valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a credit union by any person acting under its express authority. 1976, c. 62, s. 14.

Prior
consent of
Director

15. A credit union shall not acquire, purchase or lease real estate for its own use where the cost of such real estate or building or of the lease over its duration is in an amount equal to more than 8 per cent of the total share capital and deposits of the credit union without the prior written consent of the Director. 1976, c. 62, s. 15.

BY-LAWS

Extent of
by-laws

16.—(1) The directors may pass by-laws not contrary to this Act or to the articles to regulate,

- (a) the fees, terms and conditions of admission to, and withdrawal, suspension and expulsion from, membership in the credit union;
- (b) the allotment and recording of shares, the maximum number that may be allotted to any member, the payment for shares and the withdrawal or transfer of shares;
- (c) the terms, conditions and limitations under which deposits may be made with or withdrawn from the credit union;

- (d) the terms, conditions and limitations for loans made by the credit union and the interest thereon;
- (e) the time and place of and the notice and the record date for the determination of members entitled to vote to be given for the holding of meetings of members and of the board of directors, the quorum of meetings of members and the procedure and language to be used in all matters relative to the operation of the credit union;
- (f) the time for and manner of election of directors, and the remuneration of directors;
- (g) the appointment, remuneration, functions, duties and removal of officers and employees of the credit union and the security, if any, to be given by them to it;
- (h) the purposes for which the profits of the credit union may be appropriated or distributed by way of rebate of interest on loans, by dividends or otherwise;
- (i) where the credit union is a member of a league, a yearly assessment of its members to be paid to the league to assist in its financing;
- (j) the conduct in all other particulars of the affairs of the credit union.

(2) Subject to clause (1) (i), a credit union may become a member of a league by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose. 1976, c. 62, s. 16.

17.—(1) A by-law relating to the remuneration of directors may provide that the board of directors by resolution shall fix the remuneration and period for which it is to be paid.

(2) A by-law may provide that the board of directors may by resolution exercise the powers referred to in clause 16 (1) (c), (d), (g) or (h). 1976, c. 62, s. 17.

18.—(1) No by-law is effective until it is,

- (a) passed by the board of directors of the credit union;
- (b) confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose, or such greater proportion of the votes cast as the articles provide; and

Membership
in league

Remunera-
tion of
directors

Delegation
to board

Passing
of by-laws

(c) approved by the Director in the manner prescribed in this section.

Submission
to Director

(2) Upon the confirmation of a by-law under clause (1) (b), the board of directors shall forward to the Director two copies thereof signed by two officers or one officer and one director.

Approval by
Director

(3) The Director shall signify his approval by certifying the approval on one copy of the by-law with the date of the approval and returning it to the credit union.

Amendments
upon
approval

(4) Any amendment required by the Director as a condition of his approval may be made by the board of directors unless the amendment alters the intent of the by-law. 1976, c. 62, s. 18.

Copies of
by-laws

19. A copy of the by-laws of a credit union shall be delivered by the credit union to a member on demand on payment of a fee fixed by the by-laws, which shall not exceed the amount prescribed therefor by the regulations. 1976, c. 62, s. 19.

CAPITAL

Capital

20.—(1) The capital of a credit union shall be divided into shares with par value and the amount thereof shall be determined by the by-laws of the credit union, but the par value of each share shall in no case exceed \$10.

Capital, how
increased and
diminished

(2) The subscribed capital of a credit union may, subject to the by-laws, be increased by payment for shares by members, and may be diminished by withdrawal of such payments by members.

Fully paid
shares only

(3) No share in a credit union shall be allotted until it is fully paid for and a share is not fully paid until payment in cash therefor has been received by the credit union.

No
commission
on shares

(4) No commission, discount, allowance or other compensation shall be paid or allowed by a credit union in consideration of the subscription for or sale of any of its shares.

Shares are
personal
property

(5) The shares of a credit union are personal property.

Additional
shares

(6) The payment on account of shares by a member and the receipt thereof by a credit union shall be deemed to be an allotment of such shares to the members.

Member's
liability
for shares

(7) A member is not liable to the credit union for shares subscribed for in excess of the amount actually paid thereon.

Where
capital
impaired

(8) Where the board of directors determines that the credit union has suffered an impairment of capital, the board may

by resolution fix the proportion of money invested in shares that may be withdrawn, and so long as any impairment of capital exists, may from time to time change the proportion that may be withdrawn.

(9) No member of a credit union shall withdraw any portion of the money invested in shares in excess of the proportion specified in the resolution under subsection (8), or set off against any debts owing by him to the credit union a greater proportion of the money invested in shares than is specified in the resolution. ^{Idem}

(10) No resolution passed under subsection (8) applies to money invested in shares after the date of the resolution. ^{Idem}
1976, c. 62, s. 20.

BORROWING

21.—(1) Subject to the qualifications, limitations and restrictions in this Act, the board of directors of a credit union, when authorized by by-law, may, ^{Borrowing by-law}

(a) borrow money by way of loan, exclusive of money received on deposit, at such rates of interest and upon such terms as the board of directors may from time to time determine in an amount, exclusive of money on deposit, not exceeding 25 per cent of the paid-in capital, deposits and surplus of the credit union, but when specifically authorized by by-law, the total amount borrowed, exclusive of money received on deposit, may be an amount not exceeding 50 per cent of the total of the paid-in capital, deposits and surplus of the credit union;

(b) subject to clause (a), charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the credit union, including book debts, rights, powers and franchises and undertaking, to secure any debt obligation or any money borrowed, or other debt or liability of the credit union.

(2) Clause (1)(a) does not apply to a league. 1976, c. 62, s. 21. ^{Leagues excepted}

22.—(1) A credit union shall not borrow by the issue of a debenture. ^{Not to issue debentures}

(2) Subsection (1) does not apply to a league. 1976, c. 62, s. 22. ^{Leagues excepted}

23. The Director may from time to time inquire into the borrowing of a credit union and may limit the authority of the board of directors of a credit union to further borrow by giving notice of the limitation by registered mail to the ^{Limitation by the director}

board setting forth his reasons for limiting the borrowing powers and a credit union shall not exercise its borrowing powers in excess of any limitation imposed by the Director. 1976, c. 62, s. 23.

REGISTERS

Register of
members

24.—(1) Every credit union shall keep a register of members and shares.

Certificate
as evidence

(2) A statement as to,

- (a) the names and addresses of the members and the number of shares held by each member;
- (b) the date on which the name of any person was entered in the register as a member; or
- (c) the date on which any person ceased to be a member,

purporting to be certified by the secretary is, without proof of the office or signature of the secretary, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Documents
to be kept

(3) Every credit union shall keep or cause to be kept the following documents and registers in either English or French only,

- (a) a copy of its articles;
- (b) the by-laws and resolutions, including special resolutions, of the credit union;
- (c) a register of the members of the board of directors, credit committee and supervisory committee, and all officers of the credit union, setting out their names, residence addresses, giving the street and number, if any, and occupations, with the several dates on which they have become or ceased to be a member of such board or committee;
- (d) a register of all securities held by the credit union;
- (e) books of account and accounting records with respect to all financial and other transactions of the credit union as may be required by the Director;
- (f) the minutes of all proceedings at meetings of members, directors and any committees. 1976, c. 62, s. 24.

MEMBERS

Membership

25. Subject to the provisions of this Act and its articles, membership in a credit union is governed by its by-laws. 1976, c. 62, s. 25.

26.—(1) Each incorporator of a credit union who has subscribed for a share in the credit union becomes a member upon the effective date of incorporation and shall be entered upon the register of members. Incorporators deemed members

(2) A subscription for shares in a credit union constitutes an application for membership and the allotment of a share to the applicant constitutes admission to membership. Subscription deemed application

(3) Subject to subsection (1), no person shall become a member of a credit union until his application for membership has been approved by the board of directors or an officer authorized by the board and the applicant has complied fully with the by-laws governing admission of members. 1976, c. 62, s. 26. Applicants for membership

27.—(1) Subject to subsection (2), the by-laws of every credit union shall provide that the membership of the credit union shall be limited to persons or related persons having a common bond of occupation or association or to persons or related persons residing or working within a municipality, neighbourhood or other reasonably well-defined community. Membership limitation

(2) A credit union may apply to the Director for the repeal from its by-laws of the provisions referred to in subsection (1) and the Director, if he is satisfied that the credit union has a sufficient membership, capital and money on deposit and is being operated in a satisfactory manner, may approve the repealing by-law and permit its filing on such terms as the Director sees fit. Removal of limitation

(3) The Director shall not approve a by-law of a credit union under subsection (2) unless the credit union proposes to have a full-time management and a self-contained place of business and would be, in his opinion, capable of providing a satisfactory service to its members. 1976, c. 62, s. 27. Director's approval

28. Every person whose name is registered in the register of members is entitled to, Register of members

- (a) a passbook or other record specifying the amount paid upon shares, deposits and loans by him; and
- (b) such other information as may be prescribed by the by-laws of the credit union,

and the passbook or other record is admissible in evidence as *prima facie* proof of membership and of the information entered therein. 1976, c. 62, s. 28.

Voting

29.—(1) A member of a credit union has only one vote.

Proxies
permitted

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(2) No member of a credit union shall vote by proxy except when such member is a corporation, an unincorporated association or a municipality as defined in the *Municipal Affairs Act*. 1976, c. 62, s. 29.

Liability of
members

30. A member is not responsible for any act, default or liability of the credit union, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the credit union beyond the amount paid on his share or shares. 1976, c. 62, s. 30.

Not bound
by trust

31. A credit union is not bound to see to the execution of any trust, whether express, implied or constructive, to which any share or deposit is subject. 1976, c. 62, s. 31.

Shares
in trust

32. A member, in addition to holding shares in his own name, may subscribe for and hold shares and make deposits in trust for a named beneficiary, and such beneficiary without payment of any entrance fee shall be deemed to be a member of the credit union only for the purpose of qualifying for life insurance under a group policy of insurance purchased by the credit union on the lives of its members and is not entitled to notice of meetings or to vote at meetings. 1976, c. 62, s. 32.

Joint
accounts

33. Two or more members may hold their shares and deposits in a joint account and, in the absence of written notice to the contrary, payment by the credit union to any of such members or to the survivor or any of the survivors of such members of any money standing to the credit of the joint share or deposit account discharges the credit union from any further liability for such payment. 1976, c. 62, s. 33.

Ages of
members

34.—(1) A person under the age of eighteen years may be a member of a credit union, and every such member may enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given but is not entitled to vote unless permitted to do so by the by-laws.

Right to
borrow

(2) Subject to the by-laws, a member under the age of eighteen years does not have the right to borrow any amount in excess of his deposits in the credit union except upon a joint and several promissory note signed by him and by a person eighteen years of age or over.

Deposits

(3) A member under the age of eighteen years may deposit money with a credit union in his own name, and the money so deposited may be repaid to him, and he

may give a valid discharge therefor, notwithstanding his minority. 1976, c. 62, s. 34.

35. A corporation including a municipality as defined in the *Municipal Affairs Act*, an unincorporated association or a partnership registered under the *Partnerships Registration Act* may become a member of a credit union on such terms and conditions as are prescribed by the regulations. 1976, c. 62, s. 35.

Corporate
and
partnership
members
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36.—(1) Subject to section 37 and, where the death occurred on or before the 10th day of April, 1979, subject to *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, where a transmission of a share in a credit union takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy, if the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by any court or authority in any country, the probate of will or letters of administration or document testamentary or other judicial or official instrument or an authenticated copy thereof, or an official extract therefrom, may, together with a declaration in writing showing the nature of the transmission and signed and executed by the person claiming by virtue thereof, be produced and deposited with the secretary or officer named by the board of directors of the credit union for the purpose of receiving it.

Transmission
of shares

(2) The production and deposit specified in subsection (1) shall be sufficient authority to the board of directors to pay the amount or value of any obligation on shares, in pursuance of and in conformity with the letters probate, letters of administration or other instrument. 1976, c. 62, s. 36, *revised*.

Proof

37.—(1) Where a member of a credit union dies, the credit union may pay,

Payment
of moneys
re deceased
member

- (a) an amount not exceeding an amount prescribed by the regulations out of the amount on deposit in the name of the deceased or for the shares of the deceased; and
- (b) an amount not exceeding an amount prescribed by the regulations out of any money that is received by the credit union under any policy of insurance on the life of the deceased,

to any person who the board is satisfied, by statutory declaration attested to not sooner than thirty days after the death, is entitled.

(2) A payment made under subsection (1) discharges any obligation of the credit union or its board of directors in

Effect of
payment

respect of the money paid but does not affect the right of any other person claiming to be entitled to recover such money from the person to whom it was paid.

Deposits or
shares in
trust

(3) Where a member of a credit union dies holding shares or money on deposit in his name in trust for a named beneficiary, the credit union may pay the amount of such shares or deposit and any interest thereon to the executor or administrator of the estate of the deceased member, subject to the trusts or, where there is no executor or administrator, to the beneficiary or, where the beneficiary is a minor, to his parent or guardian. 1976, c. 62, s. 37.

Lien for
debt

38. A credit union has a lien on the shares and deposits of a member for any debt due to it by him, and may set off any sum standing to the credit of such member on the books of the credit union in or towards the payment of such debt. 1976, c. 62, s. 38.

Unclaimed
credits

39. Where moneys are held by a credit union for the credit of one of its members by reason of a deposit made or shares held by such member and the credit union is unable after reasonable efforts to locate the person entitled to such moneys, the credit union may pay such moneys to the Treasurer of Ontario and the Treasurer of Ontario may pay such moneys to the person entitled thereto upon satisfactory proof being furnished that he is the person entitled to receive such moneys. 1976, c. 62, s. 39.

Withdrawal
of members

40.—(1) A member of a credit union may withdraw from the credit union at any time by giving notice thereof in accordance with the by-laws.

Idem

(2) A deceased member shall be deemed to have given notice to the credit union of his intention to withdraw on the day of his death.

Payment to
withdrawing
member

(3) All amounts paid to the credit union on shares and deposits by a withdrawing member shall, after deducting all amounts due from the member to the credit union, be paid to such member within ninety days of his giving notice of his intention to withdraw.

Idem

(4) A withdrawing member is entitled to receive any dividend, interest or rebate of loan interest paid or payable to other members of the credit union as at the date of his withdrawal on the same conditions that the board of directors have made applicable to all members of the credit union.

Notice of
withdrawal

(5) Subject to subsection (3), a member who has given notice of withdrawal, or is expelled from a credit union,

has no further rights in the credit union, but he is not, by the withdrawal or expulsion, released from any remaining liability to the credit union.

(6) Where, in the opinion of the board of directors of the credit union, the payments in accordance with subsections (3) and (4) would not be in the best interests of the credit union, the board may by resolution suspend such payments for a period of one year or for such greater period and on such terms and conditions as the Director may approve. 1976, c. 62, s. 40. Extension of time

41.—(1) Subject to subsection (2), a member may be expelled from membership in a credit union for misconduct in the affairs of the credit union or for failure to abide by the conditions of membership set out in the by-laws by a resolution passed by a majority of the members at a meeting duly called for that purpose. Expulsion of members

(2) A resolution under subsection (1) is not valid unless, Notice of misconduct

- (a) a charge constituting grounds for expulsion has been made against the member by another member by filing with the board of directors full particulars in writing of such misconduct signed by him;
- (b) the member charged has been furnished with a copy of the particulars at least four weeks before the meeting at which the resolution is to be considered; and
- (c) an opportunity is given to the member charged to appear either personally or by counsel or agent to make submissions at the meeting of the members called to consider the resolution expelling him.

(3) The notice calling the meeting of members shall state that the charge has been made and specify the names of the members concerned. Notice of meeting

(4) A member who is expelled is entitled to a refund of the amount paid on his shares and his deposits with the credit union as well as any dividends, interest or rebate of loan interest paid or payable to other members of the credit union as of the date of his expulsion on the same conditions as the board of directors has made applicable to all members of the credit union. 1976, c. 62, s. 41. Refund to expelled member

42.—(1) Subject to subsection (2), a member of a credit union may maintain an action in a court of competent Representative action

jurisdiction in a representative capacity for himself and all other members of the credit union suing for and on behalf of the credit union to enforce any right, duty or obligation owed to the credit union under this Act or under any other statute or rule of law or equity that could be enforced by the credit union itself, or to obtain damages for any breach of any such right, duty or obligation.

Court order
required

(2) An action under subsection (1) shall not be commenced until the member has obtained an order of the court permitting the member to commence the action.

Notice

(3) A member may, upon at least seven days notice to the credit union, apply to the court for an order referred to in subsection (2), and, if the court is satisfied that,

- (a) the member was a member of the credit union at the time of the transaction or other event giving rise to the cause of action;
- (b) the member has made reasonable efforts to cause the credit union to commence or prosecute diligently the action on its own behalf; and
- (c) the member is acting in good faith and it is *prima facie* in the interests of the credit union or its members that the action be commenced,

the court may make the order upon such terms as the court thinks fit.

Costs

(4) At any time or from time to time while an action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the credit union of reasonable interim costs, including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the credit union if the action is dismissed on final disposition at the trial or on appeal.

Action
not to be
discontinued,
etc., without
court
approval

(5) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court and, if the court determines that the interests of the member or any class thereof may be substantially affected by such discontinuance, settlement or dismissal, the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the credit union or any other party to the action as the court directs, to the members or class thereof whose interests the court determines will be so affected. 1976, c. 62, s. 42.

DIRECTORS

43.—(1) Each of the persons named as first directors^{First directors} in the articles of a credit union is a director of the credit union until replaced by a person duly elected or appointed in his stead.

(2) The first directors of a credit union have all the^{Idem} powers and duties and are subject to all the liabilities of directors. 1976, c. 62, s. 43.

44.—(1) Every credit union shall have a board of directors^{Election} who shall be elected from its members in the manner provided in its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected.

(2) A credit union may by by-law increase or decrease^{Change in number} the number of its directors set out in the articles, subject to the minimum.

(3) A member entitled to vote at an election of directors,^{Voting} if he votes, shall cast thereat a number of votes equal to the number of directors to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member. 1976, c. 62, s. 44.

45.—(1) No person shall be a director of a credit union^{Directors to be members} unless he is a member thereof and of the full age of eighteen years, and, if he ceases to be a member, he thereupon ceases to be a director.

(2) No member shall be a director of a credit union^{Qualifications} unless he is a Canadian citizen, or is a person lawfully admitted to Canada for permanent residency who is ordinarily resident in Canada.

(3) No person shall be a director of a credit union who^{Conflict of interest} is a full-time employee of the credit union. 1976, c. 62, s. 45.

46.—(1) The board of directors shall manage or supervise^{Duties of board} the affairs and business of the credit union and perform such duties as are prescribed by this Act, the regulations and the by-laws of the credit union.

(2) The by-laws may provide for the election and retire-^{Election in rotation}ment of directors in rotation, but in that case no director shall be elected for a term of more than three years.

(3) A majority of the board of directors constitutes a^{Quorum} quorum.

- Continuance in office** (4) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected.
- Vacancies** (5) Where a vacancy occurs in the board and a quorum of directors remains, the directors remaining in office may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.
- Where no quorum** (6) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member. 1976, c. 62, s. 46.
- Expulsion of directors** **47.**—(1) When a member of the board of directors fails to attend three consecutive meetings of the board without, in the opinion of the board, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a director, his position on the board may be declared vacant by the remaining directors who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.
- Removal of directors** (2) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a director before the expiration of his term of office, and shall by vote cast at that meeting elect another director in his stead for the remainder of his term.
- Notice** (3) The notice calling the meeting of the members referred to in subsection (2) shall specifically state that the purpose of the meeting is to remove the director who is named therein.
- Right to make representations** (4) The director has the right at the meeting to make such representations to the members regarding the resolution for his removal as he thinks fit and may be represented by legal counsel or an agent. 1976, c. 62, s. 47.

CREDIT COMMITTEE

- Credit committee** **48.**—(1) Subject to section 50, every credit union shall have a credit committee who shall be elected from its members in the manner prescribed by its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected.
- Number of members** (2) The credit committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three.
- Qualifications** (3) No person who is a member of the board of directors

or of the supervisory committee or who is an officer of the credit union shall be a member of the credit committee, except that the president may be a member of the credit committee if he is so authorized by by-law.

(4) No member shall be a member of the credit committee unless he is of the full age of eighteen years.

(5) A majority of the credit committee, not including the president, constitutes a quorum.

(6) A member entitled to vote at an election of members of the credit committee, if he votes, shall cast thereat a number of votes equal to the number of members of the credit committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member.

(7) Where a vacancy occurs in the credit committee, the board of directors may fill all vacancies until the next annual meeting of the credit union.

(8) The by-laws of the credit union may provide for the election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than three years. 1976, c. 62, s. 48.

49.—(1) The credit committee shall consider all applications for loans and within the limits provided in the by-laws approve all loans to members of the credit union and perform such duties as are prescribed by this Act, the regulations and the by-laws of the credit union.

(2) When a member of the credit committee fails to attend three consecutive meetings without, in the opinion of the other members of the committee, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the other members of the committee who may then appoint a qualified person to fill the vacancy until the next annual meeting of the credit union. 1976, c. 62, s. 49.

50.—(1) The board of directors of a credit union may by by-law appoint one or more persons who are employees of the credit union, to act as a loan officer and perform all or such part of the duties of the credit committee as are specified by the by-law.

May
supersede
credit
committee

(2) If the by-law provides that the person or persons so appointed shall perform all the duties of the credit committee, it shall also provide that as long as the by-law remains in force, it shall not be necessary to elect a credit committee as required by section 48 or that, as long as the by-law remains in force, the credit committee shall have only the powers of an advisory committee. 1976, c. 62, s. 50.

Officer to
approve loan

51.—(1) The credit committee may, upon such terms and conditions as the board of directors may specify, authorize the treasurer, manager or other employee of the credit union to approve loans to a member.

Monthly
report

(2) Any person authorized by the credit committee to approve loans under subsection (1) shall submit a written monthly report to the credit committee stating the number of loan applications received, the number of loans granted and the security, if any, obtained for such loans.

Duties of
such persons
appointed

(3) The responsibilities and duties of any person authorized to approve loans under subsection (1) is concurrent with the responsibilities and duties of the credit committee. 1976, c. 62, s. 51.

Credit
committee
reports

52. The credit committee shall hold meetings not more than three months apart, shall keep minutes of its meetings and shall,

(a) submit a written report to the board of directors stating the number of loan applications received, the number and category of loans granted, the security obtained for such loans together with a report on applications denied and a report on all loans that are delinquent; and

(b) submit a written annual report on such matters to the annual meeting of the credit union. 1976, c. 62, s. 52.

Removal of
member

53.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the credit committee before the expiration of his term of office, and shall by vote cast at that meeting elect another member in his stead for the remainder of his term.

Notice

(2) The notice calling the meeting of members referred to in subsection (1) shall specifically state that the purpose of the meeting is to remove the member of the credit committee who is named therein.

(3) The member of the credit committee has the right to make such representations at the meeting regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or an agent. 1976, c. 62, s. 53.

Right
to make
repre-
sentations

SUPERVISORY COMMITTEE

54.—(1) Subject to section 58, every credit union shall have a supervisory committee who shall be elected from its members in the manner prescribed in its by-laws and shall hold office for such term as the by-laws provide and until their successors are elected.

Supervisory
committee

(2) The supervisory committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three.

Composition

(3) No person who is a member of the board of directors or credit committee or who is an officer of the credit union shall be a member of the supervisory committee.

Qualifi-
cations

(4) No member shall be a member of the supervisory committee unless he is of the age of eighteen years.

Age

(5) A majority of the supervisory committee constitutes a quorum.

Quorum

(6) A member entitled to vote at an election of members of the supervisory committee, if he votes, shall cast thereat a number of votes equal to the number of members of the supervisory committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member.

Voting at
election

(7) Where a vacancy occurs in the supervisory committee, the board of directors may fill all vacancies until the next annual meeting of the credit union.

Vacancies

(8) The by-laws of the credit union may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years. 1976, c. 62, s. 54.

Election
in
rotation

55.—(1) The supervisory committee shall examine the books of the credit union, confirm the cash instruments, property and securities of the credit union and confirm the deposits of the members and perform such other duties as

Duties

are prescribed by this Act, the regulations and the by-laws of the credit union.

Removal of
member

(2) When a member of the supervisory committee fails to attend three consecutive meetings of the committee without, in the opinion of the supervisory committee, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members of the committee who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Clerks

(3) The supervisory committee may appoint such persons as it considers necessary to assist it in performing its duties, but the remuneration to be paid to such persons is subject to the approval of the board of directors. 1976, c. 62, s. 55.

Duty when
misappropriation,
etc.

56.—(1) When the supervisory committee is of the opinion that the funds, securities or other property of the credit union have been misappropriated or misdirected, or in the event that the by-laws of the credit union, this Act or the regulations have been contravened by the board of directors, the credit committee or a member thereof or an officer or employee engaged by the board of directors, the supervisory committee shall forthwith advise the Director and the Ontario Share and Deposit Insurance Corporation in writing.

Audit

(2) The supervisory committee shall appoint an auditor or auditors or a league to assist it in determining whether any of the funds, securities or other property of the credit union have been misappropriated or misdirected and the remuneration of any auditor or league so appointed shall be paid by the credit union and determined by the supervisory committee.

Suspension

(3) In the event of a misappropriation or misdirection or a suspected misappropriation or misdirection as referred to in subsection (1), the supervisory committee may suspend any member of the board of directors or credit committee or any officer or employee without the holding of a general meeting and may appoint another person to perform the duties of the person so suspended, until a new member is duly elected or a new officer or employee appointed.

Meeting
of
members

(4) The supervisory committee shall forthwith give notice of a general meeting of the members to be held within fourteen days after the suspension under subsection (3).

(5) The supervisory committee shall report to the general ^{Idem} meeting all the circumstances of any misappropriation or misdirection of funds, securities or other property and the reasons for any suspension, and the members of the credit union may, by resolution, dismiss from office any person so suspended, and, when the members of the credit union do not so vote to dismiss from office any person so suspended, that person shall be reinstated forthwith. 1976, c. 62, s. 56.

57.—(1) The supervisory committee shall not meet less ^{Meetings} frequently than every three months, and, where no auditor has been appointed, shall meet at least every month, and shall at each such meeting examine the affairs of the credit union.

(2) The supervisory committee shall keep minutes of its ^{Report of minutes} meetings and shall,

(a) within seven days of each meeting report the results thereof in writing to the board of directors; and

(b) submit a written report to the annual meeting of the members of the credit union. 1976, c. 62, s. 57.

58.—(1) A credit union may, by by-law, provide for the ^{Auditors} appointment of an auditor or auditors in addition to or substitution for the supervisory committee and may delegate to such auditor or auditors such part of the duties of the supervisory committee as the by-law provides.

(2) The board of directors of the credit union may fix the ^{Remuneration of auditors} remuneration of the auditor or auditors.

(3) Where a credit union has passed a by-law under subsection (1) appointing an auditor or auditors to perform the duties of the supervisory committee, the by-law may further delegate the remaining powers and duties of the supervisory committee to the board of directors and so long as such by-law remains in force no supervisory committee shall be elected as required by section 54. 1976, c. 62, s. 58. ^{Delegation of powers to board of directors}

59.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the supervisory committee before the expiration of his term of office, and shall by vote cast at that meeting elect another member in his stead for the remainder of his term. ^{Removal of members}

(2) The notice calling the meeting of members referred to ^{Notice} in subsection (1) shall state that the purpose of the meeting

is to remove the member of the supervisory committee who is named therein.

Right to
make repre-
sentations

(3) The member of the supervisory committee has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or an agent. 1976, c. 62, s. 59.

OFFICERS

Officers

60.—(1) A credit union shall have a president and secretary and such other officers as are provided for by law.

Idem

(2) The board of directors shall elect the president from among themselves.

Remunera-
tion of
officers

(3) All payments to officers of a credit union for services rendered shall be approved by its board of directors.

Idem

(4) No officer or employee shall be paid or compensated on any basis that would relate such payment or compensation to the profits of the credit union or to an increase in the assets of the credit union. 1976, c. 62, s. 60.

Bond on
certain
officers
and
employees

61.—(1) Every officer or employee engaged by the board of directors of a credit union who receives or has charge of money shall, before assuming the duties of his office, furnish a bond for the due accounting of moneys received by him and the faithful performance of his duties with such sureties and in such form and amount as the board of directors may determine.

Minimum
amount of
bond

(2) The Lieutenant Governor in Council may make regulations prescribing the minimum amount of any bond to be provided under subsection (1). 1976, c. 62, s. 61.

AUDITORS AND FINANCIAL STATEMENTS

Appointment
of auditors

62.—(1) The members of a credit union having combined paid-in capital and deposits of more than \$500,000 and a credit union permitted to operate with negotiable orders shall,

- (a) at their first general meeting appoint one or more auditors to hold office until the close of the first annual meeting and, if the members fail to do so, the board of directors shall forthwith make such appointment or appointments; and

- (b) at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

(2) The members of any other credit union may appoint ^{Idem} an auditor.

(3) The board of directors may fill any casual vacancy ^{Casual vacancy} in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

(4) The members may, by resolution passed by a majority ^{Removal of auditors} of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

(5) Before calling a general meeting for the purpose ^{Notice to auditor} specified in subsection (4), the credit union shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

(a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to members in connection with the meeting.

(6) The auditor has the right to make to the credit union ^{Right to make representations} three days or more before the mailing of the notice of the meeting, representations in writing concerning his proposed removal as auditor, and the credit union, at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting.

(7) If for any reason no auditor is appointed under subsection (1), the Director may require that the board of ^{Appointment by the director} directors appoint one or more auditors to hold office until the close of the next annual meeting and the board shall establish the remuneration to be paid by the credit union for his or their services.

(8) The credit union shall give notice in writing to an ^{Notice of appointment} auditor of his appointment forthwith after the appointment is made.

Notice of
intention

(9) A person, other than an incumbent auditor, may not be appointed auditor at an annual meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the credit union not less than fifteen days before the mailing of the notice of the meeting at which the auditor is to be appointed, and, where such notice is given, the credit union shall send a copy of the notice to the incumbent auditor and to the person whom it is intended to nominate and shall give notice thereof to the members of the credit union.

Right to
make repre-
sentations

(10) The incumbent auditor has the right to make to the credit union, three days or more before the mailing of the notice of the meeting representations in writing concerning the proposal not to reappoint him as auditor, and the credit union, at its expense, shall forward with the notice of the meeting, a copy of such representations to each member entitled to receive notice of the meeting. 1976, c. 62, s. 62.

Persons dis-
qualified as
auditors

63.—(1) No person shall be appointed or act as the auditor of a credit union who is a director, officer, or employee of the credit union, or a member of the credit committee or supervisory committee thereof, or who is a partner, employer or employee of any such director, member, officer or employee, or who is a related person to any director or officer of the credit union or to a member of the credit committee or supervisory committee thereof.

Auditors not
to be
appointed
receivers

(2) No person shall be appointed a receiver or a receiver and manager or liquidator of any credit union of which he or any partner or employer of or a related person to him is the auditor or has been the auditor within the two years preceding his appointment as receiver and manager or liquidator.

Trustee in
bankruptcy
not to be
auditor
R.S.C. 1970,
c. B-3

(3) No person who is appointed a trustee of the estate of a credit union under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the credit union. 1976, c. 62, s. 63.

Annual
audit

64.—(1) The auditor shall make such examination as will enable him to report to the members of the credit union as required by subsection (2).

Auditor's
report

(2) The auditor shall make a report to the members of the credit union on the financial statement to be placed before the members at its annual meeting in accordance with section 71, and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the credit union and the results of its operations for the period under review in

accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

(3) The auditor shall also report that his examination was made in accordance with generally accepted auditing standards and that accordingly it included such tests and other procedures as he considered necessary in the circumstances. Auditor's statement

(4) When the report under subsection (2) does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor. Qualified report

(5) Where facts come to the attention of the officers or board of directors which, if known prior to the date of the last annual meeting of members, would have required a material adjustment to the financial statement presented to such meeting, the officers or board shall communicate such facts to the auditor who reported to the members under this section and the board shall forthwith amend the financial statement and send it to the auditor. Facts discovered after statement

(6) On the receipt of facts furnished under subsection (5) or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection (4) and the board of directors or, if they fail to do so within a reasonable time, the auditor shall mail the amended report to the members. Amendment of auditor's report

(7) The auditor of a credit union has right of access at all times to all records, documents, accounts and vouchers of the credit union and is entitled to require from the board of directors, officers, employees and members of the credit committee or the supervisory committee of the credit union such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2). Right of access

(8) The auditor of a credit union is entitled to attend any meeting of members of the credit union and to receive all notices and other communications relating to any such meeting that a member is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. Right to attend meetings

(9) Any member of a credit union who is entitled to vote at meetings of members, may, by notice in writing to the credit union given five days or more before any meeting of Member's right to require auditor's attendance

members, require the attendance of the auditor at such meeting at the credit union's expense, and in such event the auditor shall attend the meeting.

Auditor to
answer
inquiries

(10) At any meeting of members, the auditor, if present, shall answer inquiries directed to him concerning the basis upon which he formed the opinion stated in the report made under subsection (2). 1976, c. 62, s. 64.

OFFICERS—GENERAL

Standards
of care

65.—(1) Every director, officer, member of a supervisory committee and member of a credit committee of a credit union shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the credit union, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 1976, c. 62, s. 65.

Commence-
ment

(2) Subsection (1) does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1976, c. 62, s. 148.

Validity
of acts of
officers and
directors

66. An act done by a director, member of the supervisory committee, member of the credit committee or officer of a credit union is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. 1976, c. 62, s. 66.

Liability

67. The liability imposed by this Act upon a director, member of the credit committee, member of the supervisory committee, officer of a credit union or any person authorized to approve loans under section 51 is in addition to any other liability that is by law imposed upon him. 1976, c. 62, s. 67.

Indemnity

68.—(1) Subject to subsection (2), the by-laws of the credit union may provide that every director, credit committee member, supervisory committee member or officer may from time to time be indemnified and saved harmless by the credit union from and against,

(a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

(b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the credit union.

Idem

(2) The credit union shall not indemnify any person under subsection (1) in respect of any liability, costs, charges

or expenses that he sustains or incurs in or about any action, suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him by this Act or any other statute unless, in an action brought against him in his capacity of director, credit committee member, supervisory committee member or officer, he has achieved complete or substantial success as a defendant.

(3) A credit union may purchase and maintain insurance^{Insurance} for the benefit of a director, credit committee member, supervisory committee member or officer thereof, except insurance against a liability, cost, charge or expense incurred as a result of a contravention of section 65. 1976, c. 62, s. 68.

69.—(1) Every director, officer, credit committee member or supervisory committee member of a credit union who has, directly or indirectly, any interest in any contract or transaction to which the credit union is or is to be a party, including services rendered in a professional or business capacity, other than a contract limited solely to his remuneration for holding office, or who is, directly or indirectly, the beneficiary of any consideration or benefit as a result of any such contract or transaction to which the credit union is or is to be a party, shall declare his interest in such contract or transaction and the amount of any consideration or benefit of which he is the direct or indirect beneficiary at a meeting of the board of directors, credit committee or supervisory committee, as the case may be, and shall at that time disclose the nature and extent of such interest, to the extent to which such information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transactions be counted in the quorum.^{Disclosure of interest in contracts}

(2) The disclosure required by subsection (1) shall be made at the earliest possible meeting after the director, credit committee member or supervisory committee member becomes aware of the potential conflict of interest.^{Time for disclosure}

(3) If a director, officer, credit committee member or supervisory committee member has made a declaration and disclosure of his interest in a contract or a transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting at which it was considered and was acting honestly and in good faith at the time the contract or transaction was entered into, he is not by reason only of his holding office accountable to the credit union or to its members for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the credit union, is not voidable by reason only of his interest therein.^{Effect of declaration}

Confirmation
by
members

(4) Notwithstanding anything in this section, a director, officer, credit committee member or supervisory committee member, if he was acting honestly and in good faith, is not accountable to the credit union or to its members for any profit or gain realized from such contract or transaction by reason only of his holding office, and the contract or transaction, if it was in the best interest of the credit union at the time it was entered into is not by reason only of his interest therein voidable,

(a) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the members duly called for that purpose; and

(b) if the nature and extent of the interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting. 1976, c. 62, s. 69.

MEETINGS

Notice of
meetings

70.—(1) Notice of the time and place for holding a meeting of the members of a credit union shall be given in accordance with the by-laws of the credit union, but in no event shall notice be given later than seven days before the date of the meeting or earlier than fifty days before the date of the meeting.

Idem

(2) Notice of any meeting at which directors are to be elected shall contain the information disclosed by a director under subsection 69 (1).

Idem

(3) Notice of a meeting shall be given to each member of a credit union who on the record date for notice appears on the records of the credit union as a member by,

(a) sending the notice by prepaid mail to his latest address as shown on the records of the credit union;

(b) delivering the notice to him at his place of employment; or

(c) publishing the notice in a newspaper which circulates in the community in which the head office of the credit union is located.

Chairman

(4) The president, or in his absence, a vice-president who is a director, shall preside as chairman at a meeting of members, but if there is no president or such a vice-president, or if at a meeting neither of them is present

within fifteen minutes after the time appointed for the holding of the meeting, the members present shall choose a person from among their number to be the chairman. 1976, c. 62, s. 70.

71.—(1) The first and every successive meeting of a credit union shall be held at such time and place in Ontario as its by-laws provide, and, in default of provisions in that behalf, the annual meeting shall be held at its head office within 120 days of the year end of the credit union.

(2) At such meeting, the board of directors shall place before the members,

(a) financial statements showing matters prescribed by the regulations relating separately to,

(i) the period that commenced on the date the credit union came into existence and ended not more than four months before the annual meeting or, if the credit union has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than four months before the annual meeting, and

(ii) the period covered by the financial year next preceding such latest completed financial year, if any;

(b) the report of the supervisory committee, if any;

(c) the report of the auditor, if any; and

(d) such further information respecting the financial position of the credit union and the results of its operations as its by-laws require.

(3) The report of the supervisory committee, if any, to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member.

(4) The report of the auditor, if any, to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member.

(5) The board of directors of the credit union shall approve the financial statements referred to in clause (2) (a) and the approval shall be evidenced by the signature at the foot of the balance sheet of two duly authorized directors.

Distribution
of financial
statements

(6) The notice of the annual meeting of members shall be accompanied by a copy of the financial statements referred to in clause (2) (a) and a copy of the auditor's report, if any, or shall specify that copies of the above will be available at the meeting and copies of the above shall also be filed with the Director at least seven days before the date of the meeting. 1976, c. 62, s. 71.

General
meetings

72. The board of directors may at any time call a general meeting of the members for the transaction of any business, the general nature of which is specified in the notice calling the meeting. 1976, c. 62, s. 72.

Requisition
for members'
meeting

73.—(1) Five per cent of the members of a credit union may requisition the board of directors to call a general meeting of the members for any purpose that is connected with the affairs of the credit union and that is not inconsistent with this Act.

Requisition

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the credit union and may consist of several documents in like form, each signed by one or more requisitionists.

Duty of
directors
to call
meeting

(3) Upon deposit of the requisition, the board of directors shall forthwith call a general meeting of the members for the transaction of the business stated in the requisition.

When re-
quisitionists
may call
meeting

(4) If the board of directors do not within twenty-one days from the date of the deposit of the requisition call the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition.

Calling of
meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Repayment
of expenses

(6) The credit union shall,

- (a) reimburse all or any of the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection (4); and
- (b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the board of directors as were in default, an amount equal to the amount the requisitionists

were reimbursed, unless, at the meeting, the members by a majority of the votes cast reject the reimbursement of the requisitionists. 1976, c. 62, s. 73.

74. Every credit union shall without charge supply to every member upon application therefor or as provided by its by-laws, a copy of its last comparative financial statement. 1976, c. 62, s. 74. Annual statement to be given to members

75.—(1) Except as provided in this Act, no member or other person has any right to inspect the books of a credit union. Inspection of books

(2) Any member or other person having an interest in the funds of a credit union may inspect his own account and the books containing the names of the members at all reasonable hours at its head office or at whatever other place they are kept, subject to such conditions as to time and manner of inspection as the by-laws may prescribe. Idem

(3) A credit union may by by-law authorize the inspection of any of its books therein mentioned, in addition to the books containing the names of members, under such conditions as are thereby prescribed, and no person, unless he is an officer of the credit union or is specifically authorized by a resolution thereof, has the right to inspect the loan or deposit account of any other member without such other member's written consent. 1976, c. 62, s. 75. As to loan or deposit accounts of members

76.—(1) A credit union may establish a branch or branches subject to such terms and conditions as are prescribed by the regulations and the branch may, by by-law, provide for the holding of meetings of the members who belong thereto. Branch meetings

(2) Where a by-law under subsection (1) is in force, the members of a branch shall elect delegates, by special resolution, to represent the members at the annual or general meeting of the credit union, and the delegates so elected shall exercise the powers of the members of the branch at all meetings of the credit union and the members represented by such delegates are not entitled to vote at the meeting of the credit union. Delegates

(3) The number of delegates and votes allowed each branch at the meeting of the credit union shall be specified by the by-laws of the credit union, as well as the time, place and manner of calling a branch meeting, the number of members of the branch that constitute a quorum and the procedure to be followed in the conduct of the branch meeting. Number and votes

Majority

(4) The required majority vote for deciding each issue to be voted on at the branch meeting shall be the same as that required for deciding such issues at meetings of the entire membership of the credit union as specified in this Act, the regulations and the by-laws of the credit union. 1976, c. 62, s. 76.

DIVIDENDS

Dividends

77. Subject to the by-laws, the board of directors may declare, and the credit union may pay, a dividend on the amounts paid in on shares held by members at any time during the fiscal year and may, at their discretion, declare rebates of interest paid by members in respect of loans during that fiscal year. 1976, c. 62, s. 77.

When dividend not to be declared

78.—(1) The board of directors shall not declare and the credit union shall not pay any dividend when the credit union is insolvent, or any dividend the payment of which renders the credit union insolvent or that diminishes its capital.

Directors' joint and several liability

(2) The directors who vote in favour of or consent to the resolution authorizing the declaration of a dividend are jointly and severally liable to the credit union to the extent of the amount of the dividend so declared and paid or such part thereof as renders the credit union insolvent or diminishes its capital.

Exoneration

(3) If any director present at the meeting at which such dividend is declared, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of the dividend and is able to do so, delivers or sends to the credit union by registered mail his protest against the dividend, and within eight days thereafter, sends a copy thereof to the Director, the director thereby and not otherwise exonerates himself from liability. 1976, c. 62, s. 78.

INVESTMENTS

Investments

79.—(1) A credit union may lend or invest its funds in,

government securities

(a) the bonds, debentures, stocks or other evidences of indebtedness issued or guaranteed by the government of Canada, or of a province or territory of Canada;

municipal securities

(b) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada, or by a school or religious corporation in Canada, or secured by rates or taxes levied under the authority of the government of a province of Canada on property situate in such

province and collectable by the municipalities in which such property is situate;

- (c) the bonds, debentures or other evidences of indebtedness issued by an authority or other body established and empowered pursuant to the law of Canada or any province thereof to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway tunnel, transportation, communication, sanitation, water, electricity or gas services or facilities and, for any of these purposes, to levy, impose or fix taxes, rates, fees or other charges; revenue bonds
- (d) the bonds, debentures or other evidences of indebtedness issued by a corporation that are fully secured by a mortgage, charge or hypothec to a trustee, or to the credit union upon any, or upon any combination, of the following assets, bonds, etc., secured by mortgage
 - (i) improved real estate or leasehold,
 - (ii) the plant or equipment of a corporation that is used in the transaction of its business, or
 - (iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized by this subsection, as investments, or cash balances, if such bonds, debentures or other evidences of indebtedness, shares or cash balances are held by a trustee,

and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;

- (e) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a corporation incorporated in Canada to be used on railways or public highways, if the obligations or certificates are fully secured by, equipment trust certificates
 - (i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and
 - (ii) a lease or conditional sale thereof by the trustee to the corporation;

(f) the bonds, debentures or other evidences of indebtedness issued or guaranteed by,

(i) a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by clause (h) or (i),

(ii) a corporation, if its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporation shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

guaranteed
investment
certificates

(g) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause (h) or (i);

preferred
shares

(h) the preferred shares of a corporation if,

(i) the corporation has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

(ii) the common shares of the corporation are, at the date of investment, authorized as investments by clause (i);

(i) the fully paid common shares of a corporation that ^{common shares} during a period of five years that ended less than one year before the date of investment has either,

(i) paid a dividend in each such year upon its common shares, or

(ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

(j) ground rents, mortgages, charges or hypothecs on ^{Mortgages, etc.} real estate or leaseholds in Ontario, but the amount paid for the mortgage, charge or hypothec together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the mortgage, charge or hypothec in which the investment is made shall not exceed three-quarters of the value of the real estate or leasehold covered thereby;

(k) mortgages or charges on improved real estate or ^{guaranteed mortgages} leaseholds in Ontario notwithstanding that the mortgage or charge exceeds the amount that the credit union is otherwise authorized to invest if the excess is insured or guaranteed by the government of Canada or Ontario or by an agency of the government of Canada or Ontario or by a policy of mortgage insurance issued by an insurance company licensed under the *Insurance Act* for such class of insurance; ^{R.S.O. 1980, c. 218}

(l) real estate or leaseholds for the production of income ^{real estate or leaseholds for the production of income} in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if,

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the Government of Canada and its territories or of a province, or municipality thereof, or

(B) a corporation, the preferred shares or common shares of which are, at the

date of investment, authorized as investments by clause (h) or (i),

- (ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and
- (iii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

other real
estate or
leaseholds
for the
production
of income

- (m) real estate or leaseholds for the production of income in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if,

- (i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and
- (ii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or dispose of the real estate or leasehold;

mutual
funds

- (n) in the fully paid shares or units of any mutual fund or corporation incorporated to offer public participation in an investment portfolio subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

(2) Notwithstanding clauses (1) (*k*), (*l*) and (*m*), a credit union ^{Idem} may invest to an aggregate amount not exceeding 5 per cent of its unimpaired capital, deposits and reserves, in any other classes or types of investments, including mortgages or charges, the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. 1976, c. 62, s. 79.

80. The following restrictions, limitations and prohibitions ^{Investment restrictions} apply to credit unions in the exercise of their investment policies under this Act,

- (a) a credit union shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which the payment of principal or interest is in default;
- (b) a credit union shall not act as an underwriter in connection with the purchase or sale of any securities or other property of any kind;
- (c) except as to securities issued or guaranteed by the Government of Canada or the government of a province of Canada, a credit union shall not invest in any one security or make a total investment in any one corporation that is not a credit union or a league, either by the purchase of shares or other securities of such corporation or by lending to it on the security of its debentures or other assets or any part thereof, of more than 10 per cent of the book value of the total assets of the credit union;
- (d) a credit union shall not make any investment the effect of which will be that it will hold more than 30 per cent of the common shares or 30 per cent of the total issued shares of any one corporation;
- (e) the total book value of the investments of a credit union in common shares shall not exceed 5 per cent of the book value of the total assets of the credit union;
- (f) the total book value of the investments of a credit union in real estate or leaseholds for the production of income shall not exceed 10 per cent of the book value of the total assets of the credit union;
- (g) a credit union shall not make any investment in or loan to another credit union in an amount in excess of 1 per cent of its unimpaired capital, deposits and surplus without the written approval of the Director; and

- (h) a credit union shall not invest in the shares of a corporation that is a member of the credit union. 1976, c. 62, s. 80.

Loans and
deposits

81.—(1) Subject to paragraphs 3 and 4 of subsection 11 (2), no credit union shall advance money by discount, loan or otherwise to, or accept deposits from, persons other than its members.

Limitation
on interest

(2) Interest, together with all the costs of borrowing including bonuses, premiums and penalties shall not exceed such amount as is prescribed by the regulations.

Loans to
officers

(3) No credit union shall lend to an officer or member of a committee or of the board of directors of the credit union an amount in excess of the aggregate of fully paid up shares and deposits of such officer or member unless the loan is approved by the credit committee, the board of directors, and the supervisory committee.

Limitations
on loans to
members

(4) No credit union shall lend to a member an amount that is in excess of 10 per cent of the aggregate of its capital, members' deposits and surplus, or such lesser percentage as may be prescribed in the by-laws of the credit union.

Limitations
on loans to
unincor-
porated
members

(5) No credit union shall lend to a member who is an unincorporated association unless such loan is approved by the credit committee, the supervisory committee and the board of directors. 1976, c. 62, s. 81.

Loans to
corporate and
partnership
members

82.—(1) A credit union may make loans to corporations and partnerships who are members of the credit union in an aggregate not exceeding the greater of,

(a) 7 per cent of the credit union's unimpaired capital, deposits and surplus; or

(b) such percentage as the Director may approve, not in excess of 15 per cent of the unimpaired capital deposits and surplus of the credit union,

and such loans must be fully secured in the manner provided by the regulations.

Loans to
unincor-
porated
members

(2) A credit union may make secured loans to unincorporated associations who are members in aggregate not exceeding 1 per cent of the credit union's unimpaired share capital.

Loans to
individuals

(3) A credit union may make loans to members who are individuals on such terms as are provided for in the by-laws. 1976, c. 62, s. 82.

83. A credit union may make loans to its members by way of mortgage, charge or hypothecation on a term not exceeding five years, subject to renegotiation, and, Mortgage loans to members

- (a) the maximum amount that may be loaned by way of mortgage, subject to any limitation in the by-laws of the credit union, shall not exceed,
 - (i) three-quarters of the value of the real estate to which the mortgage or charge relates unless the excess over three-quarters of the value of the real estate to which the mortgage or charge relates is insured or guaranteed by the government of Canada or Ontario, or by an agency thereof, or by a policy of mortgage insurance issued by an insurance company licensed under the *Insurance Act* for such class of insurance, R.S.O. 1980, c. 218
 - (ii) in the case of a second mortgage, the balance owing on the first mortgage shall be taken into account in meeting the requirements referred to in subclause (i); and
- (b) the mortgage shall contain a definitive provision for repayment which will result in the principal and interest being fully repaid within twenty-five years or such longer period of time as the regulations may prescribe,

but if the credit union becomes an approved lender for the purpose of making loans under the *National Housing Act* (Canada), the provisions of that Act apply to mortgage loans undertaken by the credit union under that Act. 1976, c. 62, s. 83. R.S.C. 1970, c. N-10

84. A credit union may make guaranteed loans under and in accordance with the provisions of the *Canada Student Loans Act* (Canada), the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada) and such other Act as may be designated by the regulations. 1976, c. 62, s. 84. Student loans
R.S.C. 1970, cc. S-17, F-3, F-22

85.—(1) The credit committee may approve an extension of credit for a member by way of contract loans and advances may be made to such member from time to time within the limits of the approved extension of credit. Loans and advances

(2) The credit committee shall review all extensions of credit and an extension of credit expires if the member becomes more than ninety days in default of any repayment. Review

Contract
loans

(3) An extension of credit by way of contract loan is a loan within the meaning of this Act. 1976, c. 62, s. 85.

Directors,
etc., not to
guarantee
loans

86. No director, member of a credit committee, member of a supervisory committee or credit union officer or employee shall cosign, endorse, or act as a guarantor for any borrower from the credit union unless such loan was made to a related person and approved in the manner provided in section 81. 1976, c. 62, s. 86.

Post-
ponement or
renegotiation
of loans

87. The credit committee of a credit union may in its discretion,

- (a) upon receipt of a written request from a borrower or his cosigner, postpone the due date for the repayment of any one or more instalments of the principal of the loan or any part of an instalment or postpone the due date for the payment of any one or more payments of interest on the loan or any part of a payment, or both, and fix due dates accordingly;
- (b) upon being satisfied that a loan is reasonably secure, authorize the release or substitution of any security or securities, in whole or in part, taken to secure a loan from the credit union to a member; and
- (c) renegotiate a loan from the credit union to a member upon new terms in the event the circumstances of the borrower have changed. 1976, c. 62, s. 87.

Disposal of
unauthorized
investments

88.—(1) The Director may order a credit union to dispose of and realize any of its investments not made or held in accordance with this Act, the regulations or the by-laws and the credit union shall within sixty days after receiving the order absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by the credit union for the investments, the board of directors of the credit union are jointly and severally liable for the payment to the credit union of any deficiency.

Exoneration

(2) If any director present at the meeting at which an investment to which subsection (1) applies is authorized, forthwith, or if any director then absent, within fourteen days after he becomes aware of the investment and is able to do so, delivers or sends to the credit union by registered mail his protest against the investment, and within thirty days thereafter, sends a copy thereof by registered mail to the Director, the director thereby and not otherwise exonerates himself from liability. 1976, c. 62, s. 88.

89.—(1) The Director may order a credit union to call any loan it has made not authorized by this Act, the regulations ^{Call of unauthorized loans} or the by-laws and the credit union shall within sixty days after receiving the direction call the loan, if possible, and, if within that time the full amount of the loan is not repaid, the members of the credit committee, the person or persons appointed under section 50 and the person or persons authorized under section 51 are jointly and severally liable for the payment to the credit union of any deficiency upon the maturity of the loan.

(2) If any member of the credit committee present at the meeting at which such loan is authorized, forthwith, or if any credit committee member then absent, within fourteen days after he becomes aware of the loan and is able to do so, delivers or sends to the credit union by registered mail his protest against the loan, and, within thirty days thereafter, sends a copy thereof by registered mail to the Director, the credit committee member thereby and not otherwise exonerates himself from liability. ^{Exoneration} 1976, c. 62, s. 89.

90. A credit union may accept money on deposit at a specified rate of interest for a term not longer than five ^{Term deposits} years. 1976, c. 62, s. 90.

91.—(1) Where the combined share capital and the deposits of a credit union exceed \$100,000 and it has appointed an auditor in accordance with this Act and it has an accounting system satisfactory to the Director and its board of directors has so authorized, it may, so long only as the Director approves in writing, permit its members to use negotiable orders for the withdrawal of moneys on deposit. ^{Negotiable orders}

(2) The Director may at any time revoke any approval given under subsection (1). ^{Revocation of approval}

(3) No officer or employee of a credit union shall permit any withdrawal of moneys from the deposit or share account of a member unless the amount in such deposit or share account is equal to or in excess of the amount sought to be withdrawn, and any officer or employee who contravenes this subsection is guilty of an offence under this Act. ^{Withdrawal of money}

(4) Nothing in this section curtails, abridges, defeats or otherwise affects any remedy for the recovery from a member ^{Remedies not affected}

of any amount withdrawn in excess of the amount standing to his credit in his deposit or share account. 1976, c. 62, s. 91.

Reserve for
deposits

92.—(1) Each credit union shall at all times maintain to an aggregate of at least 10 per cent of the amount of deposits, shares and borrowings of the credit union,

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(a) cash, including deposits with a chartered bank in Canada, a loan or trust company registered under the *Loan and Trust Corporations Act*, the Province of Ontario Savings Office or a league, providing that such deposits are callable within ninety days;

(b) unencumbered bonds, debentures or other obligations of or guaranteed by the Government of Canada or by the government of any province or shares of a league, valued at market value;

(c) in the case of a credit union that is in regular receipt of deductions made from the payroll of any of its members, an amount equal to any such deductions which have been made and are in the course of being remitted; and

(d) the asset referred to in subsection 111 (7) valued in accordance with that subsection.

Idem

(2) Where the Director has given approval to a credit union under subsection 91 (1), the credit union shall maintain in the manner specified in subsection (1) an additional reserve equal to 10 per cent of the aggregate amount on deposit with the credit union that is withdrawable by negotiable order.

Idem

(3) Of the amount required to be maintained under subsection (1), at least 10 per cent shall be maintained in cash as provided in clause (1) (a).

Loans
where
reserves
deficient

(4) No credit union shall make any loan or investment other than an investment authorized by clause (1) (b) until it has satisfied the requirements of subsection (1). 1976, c. 62, s. 92.

Regulations
re reserves

93. The Lieutenant Governor in Council may make regulations prescribing further percentages of the reserves or classes of deposits or investments required to be maintained under section 92. 1976, c. 62, s. 93.

94.—(1) Every credit union in computing its annual net income or loss shall make full provision for, Provision for losses and accrued interest

(a) all doubtful loans, other doubtful receivables, and losses on investments; and

(b) all interest accruing on deposits.

(2) A credit union may by special resolution establish a reserve and may transfer to the reserve from undivided earnings or transfer from the reserve to undivided earnings such amounts as the board of directors may by resolution direct. 1976, c. 62, s. 94. Establishment of reserve

ONTARIO SHARE AND DEPOSIT INSURANCE CORPORATION

95. In sections 96 to 118, “Corporation” means the Ontario Share and Deposit Insurance Corporation. 1976, c. 62, s. 95. Interpretation

96.—(1) The corporation known in English as the Ontario Share and Deposit Insurance Corporation and in French as La Société Ontarienne D’Assurance des Actions et Dépôts is continued as a corporation without share capital. Corporation continued

(2) The *Corporations Act* does not apply to the Corporation. Application of R.S.O. 1980, c. 95

(3) The members of the Corporation shall be all credit unions incorporated in Ontario. 1976, c. 62, s. 96. Corporation members

97.—(1) The board of directors of the Corporation shall be appointed by the Lieutenant Governor in Council and shall consist of, Board of directors

(a) three persons nominated by a league that has more than fifty members and that is approved by the Lieutenant Governor in Council for the purpose of this section;

(b) one person nominated by a league that has fewer than fifty members and that is approved by the Lieutenant Governor in Council for the purpose of this section; and

- (c) three persons to represent the public and the credit unions who are not members of a league.

Chairman

- (2) The board of directors shall elect or appoint from among themselves a chairman. 1976, c. 62, s. 97.

Functions

- 98.**—(1) The affairs of the Corporation shall be administered by the board of directors.

Chairman
to preside

- (2) The chairman shall preside at all meetings of the Corporation but, where at any meeting the chairman is absent, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and shall exercise the powers of the chairman.

Secretary
and
treasurer

- (3) The board of directors may appoint a secretary and a treasurer.

Quorum

- (4) A majority of the members of the board of directors constitutes a quorum.

Travelling
expenses

- (5) A member of the board of directors shall be paid by the Corporation out of its income all reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties as a director and, in addition, may be paid out of income as remuneration for his services and duties such daily or other amount as may be fixed by the board and reported to its members in its annual report. 1976, c. 62, s. 98.

Annual
report

- 99.**—(1) The Corporation shall within four months after the termination of each financial year transmit to its members, the Minister and the Superintendent, an annual report relating to its activities in that year including financial statements of the Corporation in the form required by section 71 and the auditor's report thereon, which shall be in accordance with sections 63 and 64.

Annual
examination
of the Super-
intendent

- (2) The Superintendent shall be deemed to have an interest in the Corporation as representative of all persons who may be claimants against credit unions, and the board of directors, officers and employees of the Corporation shall from time to time furnish the Superintendent with such information and financial statements with respect to the Corporation as the Superintendent may require, and the Superintendent shall make an annual examination and report to the Minister and the Minister shall then lay the annual

report of the Corporation and report of the Superintendent before the Assembly if it is in session or, if not, at the next ensuing session. 1976, c. 62, s. 99.

100. The members of the board of directors shall hold office for a term of three years commencing on the date on which they were appointed and thereafter until their successors are appointed and any casual vacancy occurring shall be filled in accordance with section 97 for the balance of the term of the director whose office became vacant. 1976, c. 62, s. 100. Term of office

101. The objects of the Corporation are, Objects

- (a) to accumulate, manage, invest, disburse and pay out a separate fund for each league and a further fund for all independent members, such funds to be accounted for separately and each fund receiving the revenues or assets and bearing all direct charges and an appropriate portion of such other charges as may be applicable to it;
- (b) to provide, in its discretion, financial assistance, having regard to the liabilities and assets of each fund, for the purpose of assisting any credit union in the appropriate category in its continued operation or in the orderly liquidation of its operations;
- (c) to provide, for the benefit of persons having shares or deposits with credit unions in Ontario deposit insurance, against loss of part or all of such shares or deposits, by making payments to such persons to the extent and in the manner authorized by this Act. 1976, c. 62, s. 101.

102. The Corporation may do all things necessary or incidental to its objects and in particular, but without limiting the generality of the foregoing, the Corporation may, in furtherance of its objects, Ancillary powers

- (a) acquire assets from credit unions, make loans or advances to credit unions and take security therefor and guarantee loans to or deposits with credit unions;
- (b) require the payment of levies by credit unions for the purpose of establishing and maintaining the assets of the corporation;
- (c) act as a liquidator of the estate and effects of a credit union for the purpose of winding up its affairs and distributing its property;

- (d) assume the costs of winding up of credit unions;
- (e) acquire assets of credit unions from a liquidator or receiver thereof;
- (f) make an advance or grant for the purpose of paying lawful claims against credit unions in respect of any claims of their members for withdrawal of deposits or share capital and become subrogated as an unsecured creditor for the amount of such advance;
- (g) borrow money on the credit of the Corporation or on bills of exchange or promissory notes drawn, made, accepted or endorsed by or on behalf of the Corporation and may pledge as security all or any part of the assets of the funds;
- (h) make or cause to be made such inspections or examinations of credit unions as may be authorized under this Act;
- (i) declare and pay dividends to its members; and
- (j) do all such other things, not contrary to this Act, as may be necessary for the exercising of any of the powers of the Corporation. 1976, c. 62, s. 102; 1980, c. 6, s. 1 (1).

Powers and
duties of
Corporation

103. The board of directors shall administer the affairs of the Corporation in all things and make, or cause to be made, for the Corporation any description of contract that the Corporation may by law enter into, and, subject to the approval of the Lieutenant Governor in Council, the Corporation may make by-laws for,

- (a) the administration, management and control of the property and affairs of the Corporation;
- (b) the functions, duties and remuneration of all officers, agents and employees of the Corporation;
- (c) the appointment or disposition of any special committees from time to time created by the Corporation;
- (d) the appointment of an auditor;
- (e) determining the seal of the Corporation;
- (f) the time and place for the holding of meetings of the board of directors and the procedure in all things at such meetings;

- (g) prescribing standards of sound business and financial practices for credit unions;
- (h) prescribing the manner in which a credit union may represent that it is a contributor to the Corporation;
- (i) defining the expression "deposit" for the purpose of deposit insurance;
- (j) authorizing and controlling the use by credit unions of marks, signs, advertisements or other devices indicating that deposits with credit unions are insured by the Corporation;
- (k) the conduct in all other particulars of the affairs of the Corporation. 1976, c. 62, s. 103.

104. For the purposes of carrying out any investigation or inquiry authorized by this Act, the Corporation may appoint any person in writing to carry out the investigation or inquiry and the person so appointed shall be given free access to the books, records and documents of the credit union and has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation or inquiry as if it were an inquiry under that Act. 1976, c. 62, s. 104.

Powers of investigation
R.S.O. 1980,
c. 411

105.—(1) No person, other than a credit union who is a member of the Corporation, shall by any written or oral representations of any kind advertise or hold out any corporation, society or association as being insured or approved for deposit insurance by the Corporation and a person who contravenes this subsection is guilty of an offence.

Prohibition as to holding out insured

(2) No credit union shall advertise or hold out by any written or oral representation that it is insured by the Corporation otherwise than by such marks, signs, advertisements or other devices as are authorized by the by-laws of the Corporation and used in the manner and on the occasions prescribed by the by-laws and a credit union who contravenes this subsection is guilty of an offence. 1976, c. 62, s. 105.

Advertising

106. The fiscal year end of the Corporation ends on the 31st day of December in each year. 1976, c. 62, s. 106.

Fiscal year

107.—(1) The Corporation may, in its discretion, invest any funds not required in carrying out its objectives in the classes of securities in which a credit union may invest its

Investment of funds

funds under section 79 and subject to the restrictions, limitations and prohibitions contained in section 80.

Idem

(2) Notwithstanding subsection (1), the Corporation shall at all times maintain more than 50 per cent of the book value of its total assets invested in,

- (a) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;
- (b) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada;
- (c) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred or common shares of the trust company are authorized as investments under section 79;
- (d) cash on hand or on deposit in a chartered bank or a loan or trust company registered under the *Loan and Trust Corporations Act* or a league, or the Canadian Co-operative Credit Society or other institution that is prescribed by regulation,

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except that not more than 20 per cent of the book value of its total assets shall at any one time be invested in any one of investments referred to in clauses (a), (b) and (c). 1976, c. 62, s. 107.

Duty to
insure

108.—(1) The Corporation shall insure each deposit with a credit union, except so much of any one deposit as exceeds \$20,000.

How
payable

(2) Where the Corporation is obliged to make payment in respect of any deposit insured by deposit insurance, the Corporation, as soon as possible after the obligation arises, shall, in respect of such deposit, make payment to such person as appears entitled thereto by the records of the credit union with whom the deposit was made, by paying such person an amount in money equal to so much of his money as is insured by the Corporation.

Discharge
of liability

(3) Payment under this section by the Corporation in respect of any deposit insured by deposit insurance discharges the Corporation from all liability in respect of that deposit and in no case is the Corporation under any obligation to see to the proper application in any way of the payment so made.

(4) Where the Corporation makes a payment under this section in respect of any deposit with a credit union, the Corporation is subrogated to the extent of the payment made to all the rights and interest of the depositor as against that credit union. 1976, c. 62, s. 108. Subrogation

109.—(1) No credit union that is carrying on business in Ontario shall accept deposits or moneys on account of shares after the 1st day of December, 1977 unless it is insured by the Corporation from and after that day in accordance with this Act and the by-laws of the Corporation. Insuring
credit
unions

(2) Where a credit union commences business in Ontario after the 1st day of December, 1977, the deposits with the credit union shall be insured by the Corporation in accordance with this Act and the by-laws of the Corporation from and after the day the credit union commences business. Idem

(3) Where a credit union becomes insured with the Corporation, the Corporation shall issue to the credit union a certificate of deposit insurance in the form prescribed by the regulations. 1976, c. 62, s. 109. Certificate

110.—(1) The deposit insurance of a credit union may be cancelled on not less than thirty days notice to the credit union by the Corporation when, Cancellation
of deposit
insurance

(a) the credit union is in breach of the standards of business and financial practices prescribed by the Corporation or any of conditions of a policy of deposit insurance issued to it;

(b) the credit union ceases to accept deposits or issue shares; or

(c) an order has been made under section 116 for the Corporation to take possession of the credit union.

(2) When the deposit insurance of a credit union is cancelled by the Corporation, the deposits with the credit union on the day the cancellation takes effect, less any withdrawals from such deposits, continue to be insured for a period of two years or, in the case of a term deposit with a remaining term exceeding two years, to the maturity thereof. Effect of
cancellation

(3) Where the deposit insurance of a credit union has been cancelled, the credit union shall notify its depositors of that fact and shall cease to accept deposits from the date of cancellation forward. Notification
to depositors

Public
notice

(4) The Corporation may, in such manner as it considers expedient, give public notice of the cancellation of deposit insurance of a credit union if, in the opinion of the Corporation, the public interest requires that such notice be given. 1976, c. 62, s. 110.

Assessment
from league

111.—(1) The Corporation shall assess and collect during its first year of operation from each league an amount equal to 1 per cent of the aggregate total share capital and deposits of each credit union that is a member of the league at the end of the fiscal year of the league immediately preceding the assessment and the league is entitled to recover an appropriate amount from each of its members.

Assessment
from credit
unions
outside
league

(2) The Corporation shall assess and collect during its first year of operation from every credit union that is not a member of a league an amount equal to 1 per cent of the total share capital and deposits of the credit union at the end of the fiscal year of the credit union immediately preceding the assessment.

Annual
assessment

(3) The Corporation shall in each year thereafter assess and collect from, or refund to, each league and every credit union that is not a member of a league, in each year an amount equal to 1 per cent of the increase or decrease in the total share capital and deposits of the credit union.

Extra-
ordinary
assessment

(4) In addition to amounts collected under subsection (3), the Corporation may assess and collect from every credit union, directly or through a league, such further amount, based on the total amount of the shares and deposits of the credit union as at the end of the fiscal year immediately preceding the assessment, as the Corporation considers necessary to replace any advances or payments made by the Corporation in the exercise of its powers under this Act.

Idem

(5) For the purposes of the assessment referred to in subsection (4), the Corporation shall maintain separate funds for each league and a further fund to encompass the activities of all credit unions that do not belong to a league and each such assessment shall be fixed by the Corporation having regard to the financial position of each fund.

Assessment
of debt

(6) All amounts assessed by the Corporation against a credit union or league for the purposes of this Act shall be deemed to be a debt owing to the Corporation and the amount thereof, together with any interest levied by the Corporation as an overdue charge is recoverable by action in any court of competent jurisdiction.

(7) A credit union shall charge any assessment levied under subsection (4) as an expense, but, notwithstanding subsection (6), a credit union may treat any other assessment levied under this section as an asset, the value whereof shall be adjusted from time to time in accordance with the financial position of the appropriate fund accumulated by the Corporation.

Assessment
to be
treated
as an
expense

(8) Where in any year its earnings have exceeded its expenses, the Corporation may in its discretion declare a dividend to all credit unions participating in that fund of an amount not more than such excess.

Dividends

(9) On the dissolution of a credit union, the Corporation shall repay to it an amount equal to its assessments paid under subsection (1), (2) or (3), adjusted in accordance with the financial position of the appropriate fund, and for this purpose the Corporation's evaluation of the financial position of the fund shall be conclusive. 1976, c. 62, s. 111.

Replacement
on
dissolution

112. Notwithstanding anything in this Act, the Corporation may remit or defer the collection of any assessment made by the Corporation and upon such terms and conditions as it may direct. 1976, c. 62, s. 112.

Repayments

113.—(1) The Corporation shall maintain an account for each fund to be known as the accumulated net earnings to which shall be credited all earnings including realized profits on the sale of securities and to which shall be charged all expenses including operating and administrative expenses, costs of examinations and inspections of credit unions, losses and specific provisions for losses and losses on sales of securities.

Accumulated
net earnings

(2) The accumulated net earnings for each fund shall be reported as a separate item in any statement of assets and liabilities of the Corporation and shown as an addition to or a deduction from each fund.

Separate
item in
report

(3) Upon any credit union changing its status with respect to membership in any league, its contribution to the appropriate fund shall be transferred and the liabilities of the respective funds shall be adjusted accordingly, subject to the approval of the Superintendent after such audit of the credit union's affairs as seems necessary to the Superintendent. 1976, c. 62, s. 113.

Adjustment
of funds

114.—(1) For the purposes of the Corporation, the affairs of each credit union shall be examined by a person provided for under this section at least once in each year, and a copy

Annual
examination
of credit
unions

of such examination shall be forthwith transmitted by the examiner to the Corporation and the Director.

Idem

(2) The annual examination shall be made,

- (a) where the credit union is a member of a league, by the league;
- (b) where the credit union is not a member of a league, by the Director,

and the cost shall be borne by the Corporation, except that the Corporation may, in place of an examination made under clause (a) or (b), accept the report of the annual examination of the auditor of the credit union.

Examination
of leagues

(3) The Director shall make an annual examination of each league at the expense of the Corporation, and shall give a copy of his report to the Corporation. 1976, c. 62, s. 114.

Contents of
examiner's
report

115.—(1) The person examining the affairs of a credit union under section 114 shall include in the report whether or not, in his opinion, there has been any change in the circumstances of the credit union that might materially affect the financial position of the credit union and particularly, without limiting the generality of the foregoing, whether or not, in his opinion,

- (a) the assessment return made by the Corporation and in which payment to the Corporation was based are correct;
- (b) the operations of the credit union are being conducted in accordance with sound business and financial practices; and
- (c) the credit union is in a satisfactory financial condition.

Idem

(2) Each report shall further state whether or not, in the opinion of the examiner under section 114, there has been any contravention of the provisions of this Act and shall be served on the credit union. 1976, c. 62, s. 115.

Order
taking over
management

116.—(1) Where the Corporation has received a report under sections 114 and 115, that the affairs of a credit union are not in a satisfactory financial condition, and has given the credit union an opportunity to be heard and after such further inquiry and investigation as the Corporation sees fit to make, the Corporation agrees with the report, the Corporation by order shall, itself or by some other person named in

the order, forthwith take possession of the property of such credit union and conduct its business and take such steps as in the Corporation's opinion may be taken toward the removal of the causes and conditions that have made such proceedings necessary, and for such purposes and without limiting the generality of the foregoing,

- (a) the Corporation, or person named in the order, has all the powers of the board of directors of the credit union;
- (b) the Corporation, or person named in the order, has power to exclude from the credit union its officers, directors, servants and agents from the property and business of the credit union; and
- (c) the Corporation, or person named in the order, has power to carry on, manage and conduct the operations of the credit union and in the name of the credit union to preserve, maintain, realize, dispose of and add to the property of the credit union, to amalgamate with another credit union or to sell to another credit union all or part of its assets, subject to section 130 or 131 to receive the incomes and revenues of the credit union and to exercise all the powers of the credit union.

(2) Upon the request of a credit union, the Corporation may with respect to such credit union exercise the powers mentioned in subsection (1). 1976, c. 62, s. 116. Idem,
upon request

117. If at any time the Corporation considers that the affairs of the credit union have been placed in a satisfactory financial condition, the Corporation may return possession of the property of the credit union to it, and, upon such return, the order and the powers of the Corporation under which the Corporation took possession of the property of the credit union terminate. 1976, c. 62, s. 117. Termination
of order

118.—(1) A credit union may apply to The Commercial Registration Appeal Tribunal for a review of any order of the Corporation under subsection 116 (1) within thirty days after the making of the order and the delivery of a copy thereof to an officer of the credit union. Review
of order

(2) The order of the Corporation takes effect immediately, but the Tribunal may grant a stay until the review is disposed of. Stay

(3) The Tribunal shall fix a time and place for a hearing of the application and shall at least ten days before the day Hearing

fixed cause notice thereof to be served upon the applicant, the Corporation, the Director and any other person appearing to the Tribunal to have an interest in the application.

Parties

(4) Every person upon whom notice of the hearing is served and any other person added by the Tribunal are parties to the proceedings.

Powers of Tribunal

(5) The Tribunal shall hold the hearing and may by order direct the Corporation to take such action as the Tribunal considers proper or to refrain from taking any action specified in the order and thereupon the Corporation shall act accordingly.

Further decision

(6) Notwithstanding the order of the Tribunal, the Corporation has power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to review under this section. 1976, c. 62, s. 118.

WINDING UP

Interpretation

119. In sections 120 to 128, "contributory" means a person who is liable to contribute to the property of a credit union in the event of the credit union being wound up under this Act. 1976, c. 62, s. 119.

Voluntary winding up

120.—(1) Where the members of a credit union by a special resolution require the credit union to be wound up, the credit union may be wound up voluntarily.

Appointment of liquidator

(2) At such meeting, the members shall appoint one or more persons, who may be directors, officers or employees of the credit union or a league, as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up.

Publication of notice of winding up

(3) A credit union shall file a copy of the resolution requiring the voluntary winding up of the credit union with the Director within ten days after the resolution has been passed and shall publish a notice of the resolution in *The Ontario Gazette* within twenty days after the resolution has been passed and in a newspaper having a general circulation in the locality in which the head office of the credit union is situate.

Vacancy in office of liquidator

(4) Where in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or other-

wise, the members by a majority of the votes cast at a general meeting called for that purpose may elect a liquidator to fill the vacancy.

(5) The members of the credit union may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator previously appointed and in such case shall appoint another liquidator in his stead.

Removal
of
liquidator

(6) A voluntary winding up commences at the time of the passing of the resolution requiring the winding up.

Commence-
ment of
winding up

(7) Where a credit union is being wound up voluntarily, the credit union shall, from the date of the commencement of the winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and notwithstanding that it may be otherwise provided by its charter or by-laws, its corporate existence and all its corporate powers continue until the affairs of the credit union are wound up.

Credit union
to cease
undertaking

(8) After the commencement of a voluntary winding up, no action or other proceedings shall be commenced against the credit union and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the credit union except by leave of the court and subject to such terms as the court imposes.

No
proceeding
against credit
union with-
out leave

(9) Upon his appointment, the liquidator shall take custody and control of all property, rights and privileges of the credit union or to which the credit union appears to be entitled and shall take all necessary steps to wind up the credit union.

Liquidator
to take
custody

(10) Within sixty days after his appointment, the liquidator shall prepare a statement of the assets, debts and liabilities of the credit union and shall file the statement with the Director.

Liquidator
to file with
Director

(11) Upon a voluntary winding up, the liquidator,

List of con-
tributories
and calls

(a) shall settle the list of contributories;

(b) may, before he has ascertained the sufficiency of the property of the credit union, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay any sum that he considers necessary to satisfy the liabilities of the credit union, and the costs, charges and expenses of winding up and for the

adjustment of the rights of the contributories among themselves;

- (c) a list of contributories settled by the liquidator is admissible in evidence as *prima facie* proof of the liability of the persons named therein to be contributories.

Meetings of
credit union
during
winding up

(12) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the members of the credit union for the purpose of obtaining their approval by resolution or for any other purpose as he thinks fit.

Arrange-
ments with
creditors

(13) The liquidator, with the approval of a resolution of the members of the credit union passed in general meeting, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the credit union or whereby the credit union may be rendered liable.

Power to
compromise
with
debtors and
contributors

(14) The liquidator may, with the approval of a resolution of the members of the credit union passed in general meeting, compromise all debts and liabilities capable of resulting in debts and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the credit union and any contributory, alleged contributory or other debtor or person who may be liable to the credit union and all questions in any way relating to or affecting the property of the credit union, or the winding up of the credit union upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof.

Account to
be made by
liquidator

(15) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the credit union disposed of, and thereupon shall call a general meeting of the members of the credit union for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator and with the approval of a majority of the votes within ten days after the holding of the meeting cast at the meeting, the liquidator shall send a notice to the Director stating that the meeting was held, the date thereof and requesting dissolution.

Director to
recommend
dissolution

(16) The Director, upon being satisfied that the affairs of the credit union have been duly liquidated, may in

writing recommend to the Minister that the credit union be dissolved.

(17) The Minister may by order declare the credit union ^{Dissolution} to be dissolved on such date as the order fixes and shall cause notice of any such dissolution of the credit union to be given in *The Ontario Gazette* and to the Director. 1976, c. 62, s. 120.

121.—(1) A credit union may be wound up by order of ^{Winding up by court order} the court,

(a) where the members by a majority of the votes cast at a general meeting called for that purpose, pass a resolution authorizing an application to be made to the court to wind up the credit union;

(b) where proceedings have been commenced to wind up the credit union voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;

(c) where it is proved to the satisfaction of the court that the credit union, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or

(d) where in the opinion of the court it is just and equitable for some reason other than the bankruptcy or insolvency of the credit union that it should be wound up.

(2) A winding-up order may be made upon the application ^{Who may apply} of the credit union or a member or, where the credit union is being wound up voluntarily, upon the application of the Director, liquidator or contributory or of a creditor having a claim of \$200 or more.

(3) Except where the application is made by the credit ^{Notice to credit union} union, four days notice of the application shall be given to the credit union.

(4) Except where the application is made by the Director, ^{Notice to Director} four days notice of the application shall be given to the Director.

(5) The court may, ^{Power of court}

(a) make the order applied for;

- (b) dismiss the application with or without costs;
- (c) adjourn the hearing conditionally or unconditionally;
- (d) make an interim or other order as it considers appropriate; or
- (e) refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference.

Appointment
of
liquidator

(6) The court making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property.

Remuner-
ation

(7) The court may at any time fix the remuneration of the liquidator and the costs, charges and expenses of the winding up.

Vacancy

(8) Where a liquidator who is appointed by the court dies or resigns or the office becomes vacant for any reason, the court may fill the vacancy.

Removal

(9) The court may by order, for cause, remove a liquidator appointed by it and appoint another liquidator in his stead.

Notice of
appointment

(10) A liquidator appointed by the court shall forthwith give notice to the Director and the Minister of the court order respecting the winding up and shall publish the notice in *The Ontario Gazette*.

Commence-
ment of
winding up

(11) Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of the service of the notice of the application upon the Director.

Proceedings
in winding up
after order

(12) Where a winding-up order has been made by the court, proceedings for the winding up of the credit union shall be taken in the same manner and with the like consequences as are provided for a voluntary winding up, except that,

- (a) the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order; and

- (b) all proceedings in the winding up are subject to the order and direction of the court.

(13) Where the list of contributories has been settled by the liquidator before the winding-up order, it is subject to review by the court.

Review
by court

(14) Where a winding-up order has been made by the court, the court may direct meetings of the members of the credit union to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the results of it to the court.

Meeting of
members
may be
ordered

(15) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, employee, trustee, receiver, banker, agent or officer of the credit union, to pay, deliver, convey, surrender or transfer forthwith, within such time as the court directs, to the liquidator any money, books, papers, registers and other records, estate or effects that are in his hands and to which the credit union is, *prima facie*, entitled.

Order for
delivery of
property

(16) Where a winding-up order is made by the court, the court may make an order for the inspection of the books, papers, registers and other records of the credit union by its creditors and contributories, and any documents and records in the possession of the credit union may be inspected in conformity with the order.

Inspection
of docu-
ments and
records

(17) After the commencement of a winding up by order of the court,

Proceedings
against
credit union
after order

- (a) no action or other proceedings shall be commenced or continued against the credit union; and
- (b) no attachment, sequestration, distress or execution shall be carried out against the estate or effects of the credit union,

except by leave of the court and subject to such terms as the court may impose.

(18) Where the realization and distribution of the property of a credit union being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the credit union remaining in his hands

Provision
for dis-
charge of
liquidator
and distri-
bution by
the court

can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator and the court may make an order directing how the documents and records of the credit union and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court considers appropriate.

Order for
dissolution

(19) The court at any time after the affairs of the credit union have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Notice to
Director

(20) The person on whose application the order was made shall, within ten days after it was made, file with the Director a certified copy of the order and the Director shall cause notice of the dissolution to be made in *The Ontario Gazette*. 1976, c. 62, s. 121.

Dissolution
by the
Minister

122.—(1) The Director, after the credit union has been given an opportunity to be heard by the Director, may recommend to the Minister that an order be made dissolving a credit union if he is satisfied that,

- (a) its incorporation was obtained by fraud or mistake;
- (b) it exists for an illegal purpose;
- (c) the number of its members is reduced to fewer than twenty;
- (d) it is not carrying on business or is not in operation;
or
- (e) it has contravened any of the provisions of this Act or the regulations.

Notice to
credit
union

(2) Where the Director recommends to the Minister that an order be made dissolving a credit union, a copy of his recommendations and the reasons therefor shall be delivered to the credit union.

Submissions
to Minister

(3) The credit union may, within fifteen days after receiving the copy of recommendations and reasons of the Director

under subsection (2), make written submissions to the Minister in respect thereof.

(4) After considering the recommendations of the Director and the submissions, if any, of the credit union, the Minister may, in his discretion, order that the credit union be dissolved and, if necessary, shall appoint a liquidator to carry out the dissolution. Order for dissolution

(5) The liquidator shall proceed to wind up the credit union and subsections 120 (7) to (17) apply thereto, except that no approval of the members of the credit union is required thereunder. Liquidation

(6) The Director upon being satisfied that the affairs of the credit union have been duly liquidated shall so report to the Minister. Director to report

(7) The Minister may by order declare that the credit union has been dissolved on such date as the order fixes and shall cause notice of the dissolution to be given in *The Ontario Gazette*. 1976, c. 62, s. 122. Order declaring dissolution

123.—(1) Notwithstanding the dissolution of a credit union, each of the members among whom its property has been distributed other than the refunds of deposits, remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter. Liability of members to creditors

(2) Where there are numerous members, the court referred to in subsection (1) may permit an action to be brought against one or more members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. 1976, c. 62, s. 123. Action against one member as representing class

124. Subject to section 123, any real or personal property of a credit union that has not been disposed of at the date of its dissolution is forfeit to the Ontario Share and Deposit Insurance Corporation. 1976, c. 62, s. 124. Forfeiture of undisposed property

125. Upon a winding up of a credit union, Responsibilities of liquidator

(a) the liquidator shall apply the property of the credit

union in satisfaction of all its debts, obligations and liabilities, and, subject thereto, shall distribute any remaining property rateably among the members according to their rights and interests in the credit union;

- (b) in distributing the property of the credit union, debts due to the employees of the credit union for services performed due at the commencement of the winding up or within one month before, not exceeding three months wages and accumulated sickness benefits or vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons shall rank as ordinary creditors for any additional amount of their claims for wages;
- (c) all the powers of the board of directors of a credit union being wound up cease upon the appointment of a liquidator except to the extent that the liquidator may permit the continuance of these powers for the purpose of assisting the winding-up proceedings. 1976, c. 62, s. 125.

Distribution
of property
R.S.O. 1980,
c. 512

126. Section 53 of the *Trustee Act* applies with necessary modifications to liquidators. 1976, c. 62, s. 126.

Payment of
costs and
expenses

127. The costs, charges and expenses of the winding up including the remuneration of the liquidator are payable out of the property of the credit union in priority to all other claims. 1976, c. 62, s. 127.

Powers of
liquidator

128.—(1) A liquidator may,

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the credit union;
- (b) carry on the business of the credit union so far as may be necessary for the beneficial winding up of the credit union;
- (c) sell the real and personal property of the credit union by public auction or private sale;
- (d) borrow money on behalf of the credit union as may be necessary for the winding up of the credit union;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the credit union;

- (f) raise upon the security of the property of the credit union such moneys as may be required;
- (g) take out in his official name, letters of administration of the estate of any deceased contributory and in his official name, do any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate that cannot conveniently be done in the name of the credit union;
- (h) do and perform all acts and other things and execute under the corporate seal or otherwise all documents in the name and on behalf of the credit union as may be necessary for winding up the affairs of the credit union and distributing its property;
- (i) engage the services of a solicitor to assist him in the performance of his duty;
- (j) employ an agent to do any business that the liquidator is unable to do himself;
- (k) claim and, where necessary, prove any claim against the estate of a contributory for any debt or liability to the credit union;
- (l) receive dividends in the distribution of an estate of a contributory in respect of any debt or liability mentioned in clause (k);
- (m) compromise all calls, and liabilities to call, debts and liabilities capable of or resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or alleged as subsisting between the credit union and any other person;
- (n) do and execute all such other things as are necessary for winding up the affairs of the credit union and distributing its property.

(2) The execution, endorsement or making of all agreements, contracts, bills of exchange or other documents by a liquidator on behalf of a credit union has the same effect with respect to the rights and liabilities of the credit union as if the agreements, contracts or bills of exchange or other documents had been executed, endorsed or made by or on behalf of the credit union in the course of carrying on its business.

Bills of
exchange
deemed
drawn in the
course of
business

Where
approval
required

(3) The liquidator shall not exercise power granted under clause (1) (a), (d), (f), (m) or (n),

(a) in the case of a voluntary winding up, unless he has obtained the approval in writing of the Director; or

(b) in the case of a winding up by order of the court, unless he has obtained the approval of the court. 1976, c. 62, s. 128 (1-3).

Ontario
Share and
Deposit
Insurance
Corporation

(4) Clause (3) (a) does not apply where the Ontario Share and Deposit Insurance Corporation is the liquidator, 1980, c. 6, s. 1 (2).

Notice of
liability of
contributory

(5) The liability of a contributory is a debt accruing due from him at the time when his liability commenced, but payable at the time when calls are made for enforcing the liability.

Who liable
in case of
death

(6) Where a contributory dies before or after he is placed on the list of contributories, his personal representative, in administering the estate of the contributory, is liable to contribute to the property of the credit union in discharge of the liability of the deceased contributory and shall be a contributory accordingly.

Examin-
ation of
persons as
to estate

(7) The court may, at any time after the commencement of the winding up, summon to appear before the court or liquidator, any director, manager, employee or officer of the credit union, or any other person known or suspected to have in his possession any of the estate or effects of the credit union, or alleged to be indebted to the credit union, or any person whom the court thinks capable of giving information concerning the dealings, estate or effects of the credit union.

Damages
against
delinquent
directors, etc.

(8) Where, in the course of the winding up of a credit union, it appears that a person who has taken part in the formation or promotion of the credit union or any past or present director, manager, officer, employee, liquidator or receiver of the credit union has misapplied or retained in his own hands, or become liable or accountable for money of the credit union, or has committed any misfeasance or breach of trust in relation to the credit union, the court may, on the application of a creditor, member, director, liquidator, or contributory, inquire into the conduct of that person and order him to restore the money so misapplied or retained, or for which he has become liable or accountable together with interest at such rate as the court considers

just or to contribute such sum to the property of the credit union by way of compensation in respect of the misapplication, retention, misfeasance or breach of trust as the court considers just.

(9) Where a credit union has been wound up under this Act and is about to be dissolved, the books, registers and other records and papers of the credit union and of the liquidator may be disposed of in such manner as the Director may order, in the case of voluntary winding up, or as the court may order in the case of winding up under court order. Disposal
of records

(10) The Lieutenant Governor in Council may make regulations respecting the procedure to be followed in a winding up, and, unless otherwise provided by this Act or by those regulations, the practice and procedure in a winding up under the *Winding-up Act* (Canada) apply. 1976, c. 62, s. 128 (4-9). Regulations

R.S.C. 1970,
c. W-10

129. Where proceedings are taken under the *Winding-up Act* (Canada) in respect of a credit union, the secretary of the credit union shall send notice thereof to the Director by registered mail. 1976, c. 62, s. 129. Notice of
winding-up
proceedings

AMALGAMATIONS

130.—(1) Any two or more credit unions may amalgamate and continue as one credit union. Amalga-
mation of
credit
unions

(2) The credit unions proposing to amalgamate shall enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect, and, in particular, the agreement shall set out, Amalga-
mation
agreement

- (a) the name of the amalgamated credit union;
- (b) the limitation on membership in the amalgamated credit union;
- (c) the name in full, callings and places of residence of the first directors of the amalgamated credit union;
- (d) the time and manner of election of subsequent directors of the amalgamated credit union;
- (e) the par value of each share of the amalgamated credit union;
- (f) the manner of converting the share capital of each of the amalgamating credit unions into that of the amalgamated credit union;

- (g) such other details as are necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated credit union.

Filing of
agreement

(3) Within one month after the agreement is signed, the parties shall file with the Director, in triplicate, true copies of the amalgamation agreement.

Submission
to members
of credit
unions

(4) The agreement is subject to the approval of the Director, and to adoption by a vote of two-thirds of the votes cast at a meeting of each of the amalgamating credit unions called for the purpose of considering the agreement within one month after the approval of the Director is given and, when so adopted, the fact shall be certified upon the agreement by the secretary of each of the amalgamating credit unions under the corporate seal.

Application
for certi-
ficate of
amalgama-
tion

(5) If the agreement is adopted in accordance with subsection (3), the amalgamating credit unions may apply jointly to the Minister for a certificate of amalgamation.

Certificate
of amalga-
amation

(6) The Minister may, in his discretion, issue a certificate of amalgamation, and on and after the date of the certificate such amalgamating credit unions are amalgamated and are continued as one credit union under the name set forth in the certificate, and the amalgamated credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities, contracts, disabilities and debts of each of the amalgamating credit unions.

Notice

(7) The Minister shall cause notice of the issue of the certificate of amalgamation to be given in *The Ontario Gazette* and to the Director. 1976, c. 62, s. 130.

Sale and
purchase
of assets

131.—(1) A credit union may sell all or any part of its assets to another credit union or it may purchase all or any part of the assets of another credit union in accordance with this section.

Agreement

(2) The agreement of purchase and sale is subject to the approval of the Director.

Purchase
price

(3) The purchasing credit union may assume, as part of the purchase price, any or all of the liabilities of the selling credit union and may pay the balance in cash or by the issue of shares or promissory notes to the selling credit union or the members thereof whether or not such members are members of the purchasing credit union.

Approval
by members

(4) The agreement as approved by the Director is subject

to the approval of the members of each of the credit unions by at least a two-thirds vote of the members present at each meeting, and the secretary of each credit union shall certify on the agreement that it has been so approved and shall forward a copy of the agreement so certified to the Director.

(5) Upon the approval of the members of each of the credit unions, the agreement is binding on each of the credit unions and the sale shall thereafter be completed as of the effective date specified in the agreement. Effect of approval

(6) In the event the agreement does not specify an effective date, the Director may fix a date upon which it will become effective. Effective date

(7) If the selling credit union has disposed of all its assets under the agreement, it shall cease to carry on business on the effective date of the agreement, except for the purpose of winding up its affairs, and it shall dissolve as soon as possible thereafter. Where all assets disposed of

(8) If the total assets of the selling credit union are less than 15 per cent of the total assets of the purchasing credit union, the membership of the purchasing credit union shall be deemed to have given approval to the transaction. 1976, c. 62, s. 131. Where approval deemed given

REORGANIZATION

Amendment of Articles

132.—(1) Subject to sections 133 and 134, a credit union may, from time to time, amend its articles of incorporation to, Amendments

- (a) limit or otherwise vary its powers;
- (b) change its name;
- (c) provide for any other matter that is authorized by this Act to be set out in the articles or that could be subject to a by-law of the credit union.

(2) An amendment under subsection (1) shall be authorized by special resolution and such further authorization as the by-laws provide. 1976, c. 62, s. 132. Authorization

133. The credit union shall deliver to the Minister, within six months after the special resolution has been confirmed by the members, articles of amendment in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out, Articles of amendment

- (a) the name of the credit union;
- (b) a certified copy of the special resolution;
- (c) that the amendment has been duly confirmed and authorized as required by section 132; and
- (d) the date of the confirmation of the special resolution by the members. 1976, c. 62, s. 133.

Certificate
of amend-
ment

134.—(1) If the articles of amendment conform to law, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the articles of amendment the word “Filed” and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the corporation or its agent a certificate of amendment to which he shall affix the other duplicate.

Effect of
certificate

(2) The amendment becomes effective upon the date set forth in the certificate of amendment and the articles of incorporation are amended accordingly. 1976, c. 62, s. 134.

Restatement of Articles

Restate-
ment of
articles

135.—(1) Subject to subsections (2) and (3), a credit union may at any time restate its articles of incorporation as theretofore amended.

Filing of
restate-
ment

(2) The credit union shall deliver to the Minister the restated articles in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the restated articles, setting out,

- (a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and
- (b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

Certificate
of restate-
ment

(3) If the restated articles of incorporation conform to law, the Minister shall, when all prescribed fees have been paid,

(a) endorse on each duplicate of the restated articles the word "Filed" and the day, month and year of the filing thereof;

(b) file one of the duplicates in his office; and

(c) issue to the credit union or its agent a restated certificate of incorporation to which he shall affix the other duplicate.

(4) The restated articles of incorporation become effective upon the date set forth in the restated certificate and supersede the original articles of incorporation and all amendments thereto. 1976, c. 62, s. 135. Effect of certificate

RETURNS AND INSPECTIONS

136.—(1) A credit union shall, not later than four months after the end of its fiscal year, deliver to the Director, in the form prescribed by the regulations, a statement of operations, a balance sheet and the auditor's report, if any, and the statements shall also contain such other information as to compliance with this Act and the regulations as the Director requires. Annual statements

(2) A credit union shall furnish the Director with such statements with respect to its business, finances and other affairs and with such other information as he requires and the board of directors, officers and employees shall cause their books and records to be open for inspection and otherwise facilitate any examination. Information for Director

(3) The statement and other information required shall be certified by the supervisory committee and the president and by the treasurer or manager. 1976, c. 62, s. 136. Verification

137. When the Director is required or authorized by this Act to make an examination, inspection or investigation, he may appoint in writing a duly qualified member of his staff to make such examination, inspection or investigation on his behalf. 1976, c. 62, s. 137. Inspection by appointee of Director

138.—(1) The Director or any person authorized in writing by the Director shall review the annual statements received by him and he shall be given such additional information as he requires by both the Ontario Share and Deposit Insurance Corporation and the credit union and he may visit the head office of each credit union and he may inspect and examine into the conditions and affairs of any Examination

credit union and shall be given access to all books, records and other documents and may make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as they become due, and whether or not it has complied with this Act.

Report to
Corporation

(2) Where the Director considers it necessary and believes on reasonable and probable grounds that a credit union is unable to provide for the payment of its liabilities as they become due he shall immediately report thereon in writing to the Ontario Share and Deposit Insurance Corporation.

Further
examination

(3) Where the Director believes on reasonable and probable grounds that a credit union has failed to comply with the provisions of this Act or the regulations and it is expedient to make a further examination into the affairs of a credit union, the Director may, in his discretion, visit or cause a member of his staff to visit any office of the credit union to inspect and examine into its affairs and to make such further inquiries as the Director may require.

Material to
be furnished
on inspection

(4) For the purpose of the examination referred to in subsection (5), the credit union shall prepare and submit to the Director such statements with respect to its business, finances or other affairs, in addition to the statement mentioned in section 136, as the Director may require, and the board of directors, officers, agents and servants of the credit union shall cause its books to be open for inspection and shall otherwise facilitate such examination.

Examination
under oath

R.S.O. 1980,
c. 411

(5) Upon such inspection or examination, the Director, or any person authorized by him, has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. 1976, c. 62, s. 138.

Prohibition
against
accepting
deposits

139.—(1) Where it appears to the Director from an examination of the condition and affairs of a credit union that the assets are shown on the statement mentioned in section 136 at an amount greater than the true value, he may require the credit union to set aside out of earnings such additional reserves as he considers necessary, and, where in his opinion the value of the assets of the credit union is less than its liabilities, including the deposits and share accounts of its members, the Director may prohibit the credit union from taking further deposits or payments to its members, or may limit such payments for such period as he considers necessary to protect the interests of the members,

and he may take such other action as he considers necessary for the protection or in the interest of the members, including the calling of meetings of members and having his representative attend the meeting for the purpose of explaining the situation to the members.

(2) The Director may order a credit union to discontinue doing business for such time as he determines if, after an inspection thereof, he is satisfied that the continuance in business of the credit union is not in the members interest and shall report forthwith to the Ontario Share and Deposit Insurance Corporation the order made and the reasons therefor. 1976, c. 62, s. 139. Suspension of business

EXTRA-PROVINCIAL CREDIT UNIONS

140.—(1) Where the Government of Ontario has entered into an agreement providing for reciprocal rights for credit unions with the government of a province or territory of Canada, a credit union incorporated under the laws of that province or territory may register under this Act for such purposes as are specified in the agreement. Extra-provincial credit unions

(2) The Director shall maintain a register called the “Extra-Provincial Credit Unions Register” wherein shall be recorded the names of the credit unions registered and the limited purposes to which they are subject in Ontario. Register

(3) No credit union that is an extra-provincial corporation within the meaning of the *Corporations Act* shall be licensed under that Act as an extra-provincial corporation unless it has been first registered under this Act by the Director. 1976, c. 62, s. 140. Condition precedent to licence under R.S.O. 1980, c. 95

OFFENCES

141.—(1) Every person who,

- (a) refuses or neglects to make an entry in any record required by this Act, the regulations or the by-laws to be kept; Offences re records and inspections
- (b) refuses to produce any document or record of a credit union for the purpose of any inspection, examination or investigation authorized by this Act, the regulations or the by-laws;
- (c) obstructs any person authorized by this Act, the regulations or the by-laws to inspect, examine or investigate the affairs of the credit union,

is guilty of an offence and is liable on conviction to a fine of not more than \$2,000.

Officers of
corporations

(2) Where a corporation is guilty of an offence referred to in subsection (1), every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of the offence and on conviction is liable to a fine of not more than \$2,000. 1976, c. 62, s. 141.

Offence,
false
statements

142.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations or the by-laws of a credit union that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence.

Defence

(2) No person is guilty of an offence under subsection (1) if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. 1976, c. 62, s. 142.

Failure to
file annual
return

143.—(1) A credit union that is in default of filing the annual statement required by section 136 is guilty of an offence and upon conviction is liable to a fine of not more than \$50 for each day such default continues.

Failure to
pay Cor-
poration

(2) A credit union that is in default of payment of any assessment made on it by the Ontario Share and Deposit Insurance Corporation is guilty of an offence and upon conviction is liable to a fine of not more than \$50 for each day such default continues. 1976, c. 62, s. 143.

General
penalty

144.—(1) Every person who is guilty of an offence under this Act for which no penalty is otherwise provided is liable on conviction to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$10,000.

Officers of
corporations

(2) Where a corporation is guilty of an offence referred to in subsection (1), every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of the offence and on conviction is liable to a fine of not more than \$2,000. 1976, c. 62, s. 144.

REGULATIONS

145. The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing the procedure and forms to be used under this Act;
- (b) requiring and prescribing the fees payable for incorporation of credit unions and credit union leagues, for amalgamation of credit unions, for changing the name of credit unions, upon filing any articles of incorporation, return or other document required or permitted to be filed under this Act, for searches, and for certified copies of certificates of incorporation and other documents;
- (c) respecting the holding of first meetings, the notice calling the meeting, the quorum, and the business to be transacted;
- (d) prescribing matters to be shown in financial statements under clause 71 (2) (a);
- (e) governing the operations and powers of branches of credit unions;
- (f) governing credit unions and leagues of credit unions;
- (g) prescribing any matter required by this Act to be prescribed by the regulations. 1976, c. 62, s. 145.

CHAPTER 103

Creditors' Relief Act

1. In this Act,

Interpre-
tation

- (a) "county" includes a provisional judicial district;
- (b) "county court" includes a district court;
- (c) "execution" includes a writ of *fiery facias* and every subsequent writ for giving effect thereto;
- (d) "judge" means a judge of the county court of the county the sheriff of which is required to take the proceedings directed by this Act;
- (e) "sheriff" includes any officer to whom an execution is directed. R.S.O. 1970, c. 97, s. 1.

2. Where a judge is disqualified to act in a matter arising under this Act, a judge of the county court of an adjoining county has jurisdiction to act in his place. R.S.O. 1970, c. 97, s. 2.

Where
judge is
disqualified

3. Subject to this Act, there is no priority among creditors by execution from the Supreme Court or from a county court. R.S.O. 1970, c. 97, s. 3.

No priority
among
execution
creditors

4.—(1) A creditor who attaches a debt shall be deemed to do so for the benefit of all creditors of his debtor as well as for himself.

Attachment
to be for
benefit of
all creditors

(2) Payment of such debt shall be made to the sheriff of the county in which the garnishee resides, or, if there are more garnishees than one in respect of the same debt, then to the sheriff of the county in which any one of them resides.

To whom
to be paid

(3) This section does not apply to debts attached by proceedings in a small claims court unless before the amount recovered by the garnishment proceedings is actually received by the creditor an execution against the property of the debtor is placed in the hands of the sheriff of such county.

Attachments
in small claims
courts

Money paid to sheriff who has no execution in hand

(4) Where money is paid to a sheriff in whose hands there is no execution against the property of the debtor and there is in the hands of the sheriff of another county an execution against the property of the debtor, the court or a judge on the application of the last-mentioned sheriff or of a creditor or of the debtor may direct, on such terms as to costs and otherwise as seem just, that such money be paid over to the last-mentioned sheriff to be distributed by him as if such money had then been paid to him by the garnishee, and the court or judge shall fix the compensation to be paid to the sheriff by whom the money was received from the garnishee for his services.

Money paid into small claims court

(5) Where money that a sheriff is entitled to receive under this section is paid into a small claims court, the sheriff is entitled to demand and receive it from the clerk of the court for the purpose of distributing it under this Act.

Right of attaching creditor to share with other creditors

(6) An attaching creditor is entitled to share in respect of his claim against the debtor in any distribution made under this Act, but his share shall not exceed the amount recovered by his garnishment proceedings unless he has in due time placed an execution or a certificate given under this Act in the sheriff's hands.

Sheriff's poundage

(7) The sheriff is entitled to poundage upon money received and distributed by him under this section at the rate of $1\frac{1}{4}$ per cent and no more.

Sheriff's right to recover attached debt

(8) If an attached debt that the sheriff is entitled to receive or any part of it is received by the attaching creditor, the sheriff may recover it from him; but a clerk of a small claims court is not liable for making payment to the creditor unless at the time of payment he has notice that there is an execution against the property of the debtor in the sheriff's hands. R.S.O. 1970, c. 97, s. 4.

R.S.O. 1980, c. 152, exempted

(9) This section does not apply to an attachment made under section 30 of the *Family Law Reform Act*. 1978, c. 2, s. 75.

Entries by sheriff after levy

R.S.O. 1980, c. 2

5.—(1) Where a sheriff levies money under an execution against the property of a debtor or receives money in respect of a debt that has been attached or sold under section 15 of the *Absconding Debtors Act*, he shall forthwith make an entry in Form 1 in a book to be kept in his office, and such book shall be open to the public for inspection without charge.

Distribution

(2) The money shall thereafter be distributed rateably among all execution creditors and other creditors whose executions

or certificates given under this Act were in the sheriff's hands at the time of the levy or receipt of the money or who deliver their executions or certificates to the sheriff within one month from the entry, subject to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose execution the amount was made, and subject also to subsection 4 (6), and, as respects money recovered by garnishment proceedings, subject to the payment thereof to the creditor who obtained the attaching order of his costs of such proceedings.

(3) Subsection (2) does not apply to money received by a sheriff as the proceeds of a sale of property by him under an interpleader order; but upon the determination of the interpleader proceeding in favour of the creditors the money, whether in the sheriff's hands or in court pending such determination, shall, subject to subsection (4), be distributed by the sheriff among the creditors contesting the adverse claim.

Money realized on sale under interpleader order

(4) Where proceedings are taken by a sheriff for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata* in proportion to the amount of their executions or certificates to the expense of contesting any adverse claim are entitled to share in any benefit that may be derived from the contestation of such claim so far as is necessary to satisfy their executions or certificates.

Rights of creditors in case of interpleader proceedings

(5) The judge making the interpleader order may direct that one creditor has the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client, are a first charge upon the money or goods that may be found by the proceedings to be applicable upon the executions or certificates.

Order as to carriage of proceedings

(6) Upon an interpleader application, the judge may allow to other creditors who desire to take part in the contest a reasonable time in which to place their executions or certificates in the sheriff's hands upon such terms as to costs and otherwise as are considered just.

Time allowed

(7) Where the sheriff, subsequent to the entry but within the month, levies a further amount from the property of a debtor or receives money in respect of a debt that has been attached or sold, it shall be dealt with as if it had been levied or received before the entry.

Application of subsequent levy

(8) If, after the month, a further amount is so levied or received, a new notice shall be entered and the distribution to be made of the amount so levied or received and of any

Notice and distribution on further levy

further amount levied or received within a month of the entry of the last-mentioned entry shall be governed by the entry thereof in accordance with the foregoing provisions of this section, and so from time to time as further amounts are so levied or received.

Share in
subsequent
distribution

(9) Where a creditor has shared in a previous distribution, he is entitled to share in a subsequent one only in respect of the amount remaining due to him after crediting what he has received in a previous distribution.

Equality
of all
executions

(10) In distributing money under this section, creditors who have executions against goods or lands only or against goods and lands are entitled to share rateably with all others and money realized under execution against either goods or lands or against both, or under an attaching order.

Which
creditors
may share

(11) Subject to subsection 4 (6), a creditor is not entitled to share in the distribution unless by the delivery of an execution or otherwise under this Act he has established a claim against the debtor either alone or jointly with some other person.

Money
realized
under
R.S.O. 1980,
c. 2

(12) Where money in the hands of the sheriff for distribution is the proceeds of the property of an absconding debtor against whom an order of attachment has been issued under the *Absconding Debtors Act*, the period mentioned in subsection (2) is two months, and subsection (8) shall be read as if the words "the month" in the first line were "the two months". R.S.O. 1970, c. 97, s. 5.

Proceedings
where debtor
allows
execution
to remain
unsatisfied

6.—(1) If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff to remain unsatisfied in the sheriff's hands until within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the proceedings hereinafter authorized may be taken by other creditors or claimants in respect of debts that are overdue.

When sale
occurs

(2) When a sale has taken place under an execution, the proceedings hereinafter authorized may be taken by any creditor of the execution debtor even though his claim is not then due. R.S.O. 1970, c. 97, s. 6.

Affidavit of
creditor

7.—(1) An affidavit in Form 2 of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts.

Filing
affidavit or
certificate

(2) Before or simultaneously with the filing with the clerk of the county court of the affidavit, there shall be filed with him a

certificate of the sheriff, or an affidavit, showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act.

(3) The claimant shall serve on the debtor one of the duplicates and a notice in Form 3. Service on debtor

(4) Where the affidavit and notice are to be served out of Ontario, the judge shall by order fix the time after which the next step may be taken by the claimant as hereinafter provided. R.S.O. 1970, c. 97, s. 7. Service out of Ontario

8.—(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon a solicitor in Ontario, whose name and address shall be given, or by mailing the claims to an address stated in the notice. Notice by debtor of address for service

(2) The sheriff shall thereupon enter the notice in the book mentioned in subsection 5 (1), and, so long as any execution that was in the sheriff's hands at the time the notice was given remains in his hands, shall repeat such entry immediately below any entry in Form 1 made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked". Entry of notice

(3) So long as the notice is not revoked, the affidavit of claim and notice in Form 3 may, where a solicitor is named, be served upon an execution debtor by serving it upon the solicitor, or, if mailing is required, then by sending it by registered mail to the address in the notice given by the execution debtor. Service at address

(4) Where the notice in Form 3 served on a debtor does not state some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon the claimant, or does not give the name and address of some solicitor in Ontario who may be served on the claimant's behalf, service of any notice, paper or document may be made upon the claimant by sending it by registered mail addressed to the claimant at the county town. Service by mail

(5) The claimant shall file with the clerk of the county court of the county, the sheriff of which has the execution, one of the duplicate affidavits of claim and a copy of the notice with an affidavit of service thereof in Form 4. Filing affidavit

(6) The affidavit and the notice shall, where practicable, be personally served upon the debtor; but, if it is made to appear to the judge that the claimant is unable to effect prompt personal service, the judge may order substitutional Service generally

or other service, or may direct some act to be done that shall be deemed sufficient service. R.S.O. 1970, c. 97, s.8.

Certificate
where claim
not disputed

9.—(1) Where the claim is not contested in the manner hereinafter mentioned, after ten days from the day of service, or after the time mentioned in the order provided for by subsection 7 (4), as the case may be, on the application of the claimant and his filing proof of due service of the affidavit and notice, or, where the claim is contested, upon the determination of a dispute in favour of the claimant, either in whole or in part, the clerk of the county court shall deliver to the creditor a certificate in Form 5 and, where the claim is disputed as to a part only, the claimant may elect, by a writing filed with the clerk, to abandon such part and is entitled to a certificate as to the residue.

Delivery to
sheriff and
effect of
certificate

(2) Upon delivery of the certificate to the sheriff the claimant shall be deemed to be an execution creditor within the meaning of this Act, and is entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate binds the lands and goods of the debtor in the same manner as an execution, subject, however, to the debt being afterwards disputed by a creditor as hereinafter provided.

In case of
interpleader

(3) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

Address for
service to be
endorsed

(4) If the certificate is obtained by a solicitor, his name and address shall be endorsed thereon, and, if obtained by the claimant in person, there shall be endorsed thereon a statement of some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon him, and, in default thereof, service of any notice, paper or document may be made upon the claimant by sending it by registered mail addressed to him at the county town.

Further
levy

(5) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed and the sheriff's fees, and so from time to time in case further certificates are received.

Time of
remaining
in force

(6) A certificate remains in force for three years from the date thereof, but may from time to time be renewed in the same manner as an execution.

Execution or
certificate
expiring
within
month
of levy

(7) Notwithstanding the expiry of an execution or certificate before the termination of the month during which a notice of money having been levied or received is required to be entered, the execution or certificate, as to any money levied or received during such month, shall be deemed to be in full force and effect. R.S.O. 1970, c. 97, s. 9.

10.—(1) The claim may be contested by the debtor or by Contesting claim
a creditor of the debtor.

(2) Where the debtor contests the claim, he shall file with Affidavit of debtor
the clerk an affidavit stating that he has a good defence to the claim or to a specified part of it on the merits, but the judge may dispense with the affidavit on terms or otherwise.

(3) The debtor shall file the affidavit and serve upon the claimant a copy thereof within ten days after service upon Filing and serving affidavit
him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by subsection 7 (4), as the case may be, or within such further time as the judge may allow.

(4) Where the contestation is by a creditor, he shall file Contestation by creditor
with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant, but the judge may dispense with the affidavit on terms or otherwise.

(5) Notice of contestation, whether by the debtor or by a Notice of contestation
creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit or after the order of the judge, if the affidavit is dispensed with.

(6) The affidavit by a creditor may be filed and a certificate thereof delivered to the sheriff at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certificate to the claimant. Certificate of contestation

(7) The affidavit of the debtor or other contestant shall have endorsed thereon a statement of some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon him, or the address of a solicitor in Ontario who may be served on his behalf, and, in default thereof, service of any notice, paper or document may be made upon the debtor or contestant by sending it by registered mail addressed to him at the county town. R.S.O. 1970, c. 97, s. 10. Address for service

11. Where the address of a solicitor is given for service that Service on Toronto agent
is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. R.S.O. 1970, c. 97, s. 11.

12.—(1) Where a claim is contested by a creditor after a Distribution in case of contestation
certificate has been placed in the sheriff's hands, the sheriff, unless the judge otherwise orders, shall levy as if the contesta-

tion had not been made, and shall, until the determination of the contestation, retain in the bank the amount that would be apportionable to the claim if valid, and shall, as soon after the expiry of the month as is practicable, distribute the residue of the money made among those entitled thereto.

Application
for allow-
ance of
claim

(2) The claimant whose claim is contested may apply to the judge for an order allowing his claim and determining the amount, and, if he does not make such application within eight days after receiving notice of the contestation or within such further time, if any, as the judge allows, he shall be taken to have abandoned his claim.

When
contest is
not in good
faith

(3) Where the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contestation. R.S.O. 1970, c. 97, s. 12.

Trial of
contestation

13.—(1) The judge may determine any question in dispute in a summary manner or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and may make such order as to the costs of the proceedings as he considers just.

Where
sum in
controversy
exceeds \$400

(2) Where the sum in controversy appears to be over \$400 exclusive of costs, the judge shall direct that the action be brought or the issue tried in the Supreme Court, and, subject to any order that that court or a judge thereof may make in that behalf, shall name the county in which the trial is to take place.

Proceedings
where issue
directed

(3) Where an issue is directed, the trial shall take place and all proceedings subsequent thereto shall be the same as if it had been an action in the court in which it is ordered to be tried. R.S.O. 1970, c. 97, s. 13.

Production,
examination,
etc.

14. The same proceedings may be had for the production of documents and for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings may also be taken before the application to the judge, and as a foundation therefor. R.S.O. 1970, c. 97, s. 14.

Clerk to
keep book
of record

15.—(1) The clerk of the county court shall keep a book in which, before giving a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate or issues an execution:

1. The names of the claimant and the debtor.

2. The date of the entry.
3. The amount of the debt, exclusive of costs.
4. The amount of costs.
5. If the proceedings have been set aside, that fact, and shortly the reason therefor.

(2) The entry has, subject to this Act, the effect of and is a Effect of entry final judgment of the court for the debt and costs.

(3) The clerk shall index the entries in a book, alphabetically under the names of the debtors.

(4) Where the original papers are lost or destroyed, a copy Copy of entry as evidence of the entry is evidence of the matters therein set forth. R.S.O. 1970, c. 97, s. 15.

16. A creditor who has recovered a judgment in a small Small claims court judgment creditors claims court against the debtor may deliver to the sheriff a certificate, under the hand of the clerk and the seal of the small claims court, of the amount of his judgment and of the costs to which he is entitled, and the certificate so delivered shall have the same effect, for the purposes of this Act, as if the creditor had delivered to the sheriff an execution from a county court. R.S.O. 1970, c. 97, s. 16.

17. Where a creditor has taken in one county the pre-Establishing claim in another county scribed proceedings in respect of his claim and desires to establish his claim for the purposes of this Act in another county, he may do so by obtaining from the clerk of the county court of the county first mentioned another certificate in Form 5, and delivering it to the sheriff of such other county, and the delivery of the certificate to the sheriff has the same effect in such other county from the time of the delivery thereof as if the certificate had been issued by the clerk of the county court of such other county upon the proceedings therein. R.S.O. 1970, c. 97, s. 17.

18. A creditor entitled to obtain a certificate from the clerk Executions may issue to any county of a county court may also sue out an execution into any county in the same manner as on an ordinary judgment; but this does not prejudice the right of any other creditor to contest the claim of the first-mentioned creditor under this Act. R.S.O. 1970, c. 97, s. 18.

19.—(1) Where a claim is contested in one county, the Effect of decision after contestation decision thereon shall, as between the parties to the contestation, determine the amount of the claim for the purposes of this Act and in all other counties in which the claim is filed, and the certificate of the clerk of the county court of the county in which the contestation has taken place as to the result thereof is sufficient evidence of the decision.

Fee for
certificate
of result

(2) Upon payment of a fee of 50 cents the certificate shall be granted to any party to the proceedings who applies therefor. R.S.O. 1970, c. 97, s. 19.

Effect of
payment or
withdrawal
of all
executions
and
certificates

20.—(1) Where the debtor, without a sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been filed, or where all executions and certificates in the sheriff's hands are withdrawn and any claims filed are paid or withdrawn, notice shall not be entered under section 5 and no further proceedings shall be taken under section 6.

Where all
not satisfied

(2) Save as aforesaid, after a certificate has been delivered to the sheriff, the withdrawal or expiry of the execution upon which the proceedings are founded, or any stay of the same, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the execution, does not affect the proceedings that may be taken under this Act, and, except so far as the action taken with respect to the execution may affect the amount to be levied, the sheriff shall levy upon the property of the debtor as he would have done had the execution remained in his hands in full force for execution, and he may also take the like proceedings as he would have been entitled to take had the execution been a writ of *venditioni exponas*.

Effect of
part pay-
ment where
one debt

(3) Where a debtor, without a sale by the sheriff, pays to him part of the amount owing in respect of an execution or certificate in his hands, and there is at the time no other execution or certificate in his hands, the sheriff shall apply the money so paid on the execution or certificate, and section 5 does not apply to the money so paid. R.S.O. 1970, c. 97, s. 20.

Priority of
costs under
R.S.O. 1980,
c. 2

21.—(1) Where proceedings have been taken against a debtor under the *Absconding Debtors Act* and his property has been attached under an order of attachment before an execution has been placed in the hands of the sheriff and the money levied is the proceeds of such property or a part thereof, the cost of the order of attachment, or, if there are more than one, the one first placed in the sheriff's hands and the proceedings thereon have priority over the claim of all other creditors.

Attaching
creditor and
execution
creditor

(2) Where an attaching creditor is entitled to priority under subsection (1), the priority provided for by subsection 5 (2) shall not be given to the execution creditor. R.S.O. 1970, c. 97, s. 21.

Costs of
claimant

22.—(1) The clerk of the county court shall ascertain and state in his certificate the amount of the costs to which the claimant is entitled as against the debtor.

(2) Such costs shall be the following:

Scale of
costs

1. For serving the affidavit of claim and notice, in the case of claims over \$400, on the scale of the Supreme Court, and in the case of claims exceeding \$200 and not exceeding \$400, on the county court scale, and in the case of claims of \$200 and under, on the small claims court scale; but, if the claim does not exceed \$200, no greater fees are to be allowed than would be allowed to a small claims court bailiff for the service of a small claims court summons and mileage if the claim had been sued in the proper small claims court.
2. The fees paid to the clerk of the county court, on the scale for like proceedings in the county court, unless the claim does not exceed \$200, in which case his fees are those allowable for like proceedings in the small claims court.
3. Where there is no contest, \$5 for fees of a solicitor, if one is employed, unless the amount of the claim does not exceed \$200, in which case the sum of \$2 shall be allowed.
4. Where there is a contest, such additional costs as the judge may allow, to be taxed on the scale of the Supreme Court, county court, or small claims court, according as the amount in dispute is within the jurisdiction of one or other of such courts.
5. The costs of obtaining an order for substitutional service or other similar order and of such service, and of or incidental to service out of Ontario, if the claim is within the jurisdiction of the small claims court, only such costs as would have been allowed in the small claims court. R.S.O. 1970, c. 97, s. 22.

23. Where there is in a court a fund belonging to an execution debtor or to which he is entitled, it or a sufficient part thereof to meet the executions and certificates in the sheriff's hands may, on the application of the sheriff or any person interested, be paid over to the sheriff, and it shall be deemed to be money levied under execution within the meaning of this Act. R.S.O. 1970, c. 97, s. 23.

Payment to
sheriff of
fund in
court

24. Where a judgment creditor obtains the appointment of a receiver by way of equitable execution of property of his debtor, the receiver shall pay into court the money received by him by virtue of his receivership, and it is subject to section 23, but the creditor is entitled to be paid thereout the

Money
made by
receiver

costs of and incidental to the receivership order and the proceedings thereon in priority to the claims of all other creditors. R.S.O. 1970, c. 97, s. 24.

Goods in
hands of
small claims
court
bailiff

25.—(1) If the sheriff does not find property of a debtor leviable under the executions and certificates in his hands sufficient to pay the same in full, but finds property or the proceeds thereof in the hands of the bailiff of a small claims court under an execution or attachment against the debtor, the sheriff shall demand and obtain them from the bailiff, who shall forthwith deliver them to the sheriff with a copy of every execution and attachment in his hands against the debtor and a memorandum showing the amount to be levied under the execution, including the bailiff's fees, and the date upon which each execution or attachment was received by him.

Penalty for
default

(2) If the bailiff fails to deliver any of such property or the proceeds thereof, he shall pay double the value of that which is retained, which may be recovered by the sheriff from him with costs of suit, and shall be accounted for by the sheriff as part of the estate of the debtor.

Costs

(3) The costs and disbursements of the bailiff are a first charge upon such property or the proceeds thereof and shall be paid by the sheriff to the bailiff upon demand after being taxed by the small claims court clerk.

Distribution
of proceeds

(4) The sheriff shall distribute the proceeds among the creditors entitled to share in the distribution, and the small claims court execution creditors are entitled without further proof to stand in the same position as creditors whose executions are in the sheriff's hands. R.S.O. 1970, c. 97, s. 25.

Apportion-
ment

26. Where the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full, the money shall be applied to the payment rateably of such debts and costs of the creditors, after retaining the sheriff's fees including poundage, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made where he is entitled to priority therefor under this Act. R.S.O. 1970, c. 97, s. 26.

Levy of
interest and
costs of
renewals

27. The sheriff, if directed by an endorsement upon a certificate, shall, in addition to the amounts named therein, levy interest on such amounts from the date of the certificate, or from the date named in that behalf in the certificate, and also \$1.35 for the disbursements on every renewal of the certificate, and, where such renewal is made upon the application of a solicitor, he shall also levy \$1.25 for the solicitor's costs on the renewal. R.S.O. 1970, c. 97, s. 27.

28. Where money is to be distributed by the sheriff under this Act, he is not entitled to poundage as upon separate executions or certificates, but only upon the net proceeds distributable by him at the same rate as if the whole amount had been payable upon one execution. R.S.O. 1970, c. 97, s. 28.

Sheriff's
poundage

29.—(1) Where money is made under an execution, it shall be taken to have been made under all the executions and certificates entitled to the benefit thereof, and, upon payment being made to the person entitled under any such execution or certificate, the sheriff shall endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the execution, or by direction of the court out of which the same issued, or of a judge thereof, return the execution until it has been fully satisfied or has expired, in which latter case the sheriff shall make a formal return of the amount made thereunder.

Application
of money
made under
execution

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect of a certificate as can now be had to compel the return by the sheriff of an execution. R.S.O. 1970, c. 97, s. 29.

Compelling
payment
by sheriff

30. Pending the distribution, the sheriff shall keep, in the book mentioned in section 5, a statement in Form 6 showing,

Statement
to be kept
in sheriff's
office,
pending
distribution

- (a) the amounts levied or received and the dates of levy or receipt;
- (b) each execution, certificate or order in his hands at the time of making the entry in Form 1, or subsequently received during the month, the amount thereof, for debt and costs, and the date of receipt, and such statement shall be amended from time to time as additional amounts are levied or received or further executions, certificates or orders are received. R.S.O. 1970, c. 97, s. 30.

31. The sheriff shall at all times without fee answer any reasonable question that he is asked orally respecting the property of the debtor by a creditor or any one acting on the creditor's behalf, and shall facilitate the obtaining by him of full information respecting the property and the probable dividend to be realized therefrom in his county, or any other information in connection with the property that the creditor may reasonably desire to obtain. R.S.O. 1970, c. 97, s. 31.

Sheriff to
give infor-
mation as
to estate
of debtor

32.—(1) Where at the time for distribution the money is insufficient to pay all claims in full, the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.

Distribution
by sheriff
where
amount
levied
insufficient
to meet all
claims

Contents
of list

(2) The list shall be so arranged as to show the amount payable to each creditor and the total amount to be distributed, and the sheriff shall deliver or send by registered mail a copy of the list to each creditor or his solicitor.

Time for
distribution

(3) If within eight days after all the copies have been delivered or posted, or within such further time as the judge may allow, no objection is made as provided by this Act, the sheriff shall make distribution forthwith pursuant to such list.

Where
objection
made

(4) If objection is made, the sheriff shall forthwith distribute rateably so much of the money made, and among such persons, as will not interfere with the effect of the objection in case it should be allowed.

Right of
contestation

(5) Any person affected by the proposed scheme of distribution may contest it by giving, within the time mentioned in subsection (3), a notice in writing to the sheriff stating his objection to the scheme and the grounds thereof.

Order

(6) The contestant shall within eight days thereafter apply to the judge for an order adjudicating upon the matter in dispute, otherwise the contestation shall be taken to be abandoned.

Appoint-
ment

(7) The contestant shall, within the time mentioned in subsection (6), obtain from the judge an appointment for hearing and determining the matter in dispute.

Service

(8) A copy of the appointment and a notice in writing in Form 7 of the objections stating the grounds thereof shall be served by the contestant upon the debtor, unless he is the contestant, and upon the creditors or such of them as the judge may direct.

Determina-
tion of
dispute

(9) The judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and may make such order as to the costs of the proceedings as he considers just, and subsections 13 (2) and (3) apply.

Distribution
of money
retained

(10) Where a claimant is held to be not entitled or to be entitled to part only of his claim, the money retained pending the contestation or the portion as to which the claimant has failed shall be distributed among the creditors who would have been entitled to it as it would have been distributed had the claim in respect thereof not been made.

(11) Where a debtor has executed a mortgage or other charge, otherwise valid, upon his property or a part thereof after the receipt of an execution by the sheriff and before distribution, such mortgage or charge shall not prevent the sheriff from selling the property under an execution or certificate placed in his hands before distribution as if such mortgage or charge had not been given, nor prevent creditors whose executions or certificates are subsequent thereto from sharing in the distribution; but, in distributing the money realized from the sale of such property, the sheriff shall deduct and pay to the person entitled thereto the amount of such mortgage or charge from the amount that would otherwise be payable out of the proceeds of such property to such subsequent creditors.

Rights of subsequent execution creditors where first execution followed by a mortgage

(12) In the case provided for in subsection (11), the sheriff shall prepare a separate scheme of distribution of the proceeds of the encumbered property without reference to the mortgage or charge, and from the dividends payable according to such scheme to subsequent creditors there shall be deducted the amount of the mortgage or charge, and the amount so deducted shall be paid to the encumbrancer. R.S.O. 1970, c. 97, s. 32.

Scheme of distribution in above case

33. Where several creditors are interested in a contestation, either for or against the same, the judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he considers just, and shall direct by whom and in what proportions any cost incurred in the contestation, or in any proceedings thereunder, shall be paid, and whether any and what costs shall be paid out of the money levied. R.S.O. 1970, c. 97, s. 33.

Directions by judge to avoid unnecessary parties and trials

34.—(1) The judge may direct the sheriff to levy for an amount sufficient to cover a claim that is in dispute, or part thereof, or, if it appears to the judge that it is improbable that the debtor has other sufficient property, he may direct the sheriff to retain in his hands during the contestation the share that, if the claim is sustained, will be apportionable to it, or a part thereof.

Direction by judge to sheriff where claim is disputed

(2) An order to levy under this section confers on the sheriff the same authority as he would have under an execution. R.S.O. 1970, c. 97, s. 34.

Authority of sheriff under order

35. The decision of a judge of the county court or of the Divisional Court on an appeal binds the debtor and all his creditors, unless it appears that the decision was obtained by fraud or collusion. R.S.O. 1970, c. 97, s. 35.

Effect of decisions

36.—(1) Where money comes into the hands of a sheriff, he shall, whenever it amounts to \$100, deposit it in a chartered

Deposit of money in bank

bank designated for that purpose by the Lieutenant Governor in Council, or, where there is no such bank, in a chartered bank in which public money of Ontario is then being deposited.

Special
account

(2) The deposit shall be made in a special account in the name of the sheriff as "Trustee for the creditors of.
(the debtor)". R.S.O. 1970, c. 97, s. 36.

Attaching
orders by
sheriff

37. Where there are in the sheriff's hands several executions and certificates and there does not appear to be sufficient property to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of the sheriff, whether the debt is owing by such person alone or jointly with another person resident or not resident in the county, and to procure an order and to obtain and enforce payment of the debt the sheriff may take the same proceedings as a creditor, and in such case an execution may be directed to him in the same manner as if the attachment were by a creditor, and the proceeds of the debt attached shall be dealt with and distributed in the same manner as if he had realized the proceeds under execution. R.S.O. 1970, c. 97, s. 37.

Appeal

38. If a party to a contestation or matter upon which a judge has rendered or made a final judgment or order is dissatisfied with the judgment or order and it is with respect to a question involving a sum greater than \$100, he may appeal therefrom to the Divisional Court in accordance with the rules of court. R.S.O. 1970, c. 97, s. 38, *revised*.

Powers
of judge

39. For the purpose of giving effect to this Act and carrying out its provisions, a judge has all the powers that a county court or a judge thereof has by law for other purposes, and any proceedings erroneously taken under this Act may be set aside by the judge, with or without costs as he thinks fit. R.S.O. 1970, c. 97 s. 39.

Evidence on
proceeding
before judge

40. Upon any proceeding before the judge, the evidence may be taken orally or by affidavit as the judge may direct. R.S.O. 1970, c. 97, s. 40.

Fees
payable to
the Crown

41. In addition to the fees authorized to be paid to the clerk of the county court for his own use, the following fees are payable to the Crown upon all claims filed, where the amount of the claim exceeds \$200:

On an affidavit of claim where the amount claimed does not exceed \$400	\$.80
On every such affidavit where the claim exceeds \$400	1.50
On every certificate of the clerk given under section 9, where the claim does not exceed \$40080

On every such certificate where the claim exceeds \$400	\$1.50
On every order made by the judge allowing or disallowing a claim, where the claim does not exceed \$40050
On every such order where the claim exceeds \$400	1.00
R.S.O. 1970, c. 97, s. 41.	

42. Except where inconsistent with this Act, the *Judicature Act* and the rules of court apply to proceedings under this Act. R.S.O. 1970, c. 97, s. 42.

Application
of
R.S.O. 1980,
c. 223 and
rules of
court

FORM 1

Creditors' Relief Act

(Section 5 (1); Section 30 (b))

SHERIFF'S ENTRY

I have on this day in my hands for distribution under the *Creditors' Relief Act* among the creditors of *C.D.* the sum of \$....., and the distribution will be made among the creditors of *C.D.* entitled to share therein at the expiration of one month from this day.

Dated the.....day of.....,19.....

F.G.
Sheriff

R.S.O. 1970, c. 97, Form 1.

FORM 2

Creditors' Relief Act

(Section 7 (1))

AFFIDAVIT OF CLAIM

In the County Court of the County of

A.B......, Claimant

and

C.D......, Debtor

I, *A.B.*, of....., in the County of....., Merchant (*or as the case may be*), make oath and say:

1. I am the above-named claimant (*or* the duly authorized agent of the claimant) in this behalf, and have a personal knowledge of the matter hereinafter deposed to.

2. The above-named debtor is justly and truly indebted to me (or to the above-named claimant) in the sum of \$
for [here state shortly the nature and particulars of the claim].

Sworn, etc.

A. B.

R.S.O. 1970, c. 97, Form 2.

FORM 3

Creditors' Relief Act

(Section 7 (3); Section 8 (3, 4))

NOTICE TO BE SERVED WITH CLAIM

In the County Court of the County of.....

A.B....., Claimant

and

C.D....., Debtor

To the above-named debtor.

Take notice that the claimant intends to file with the clerk of the County Court of the County of.....(or as the case may be) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said county an execution against your property, and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of the *Creditors' Relief Act*.

And further take notice that, if you desire to contest the said claim or any part thereof, you must, within ten (10) days* after the service of this notice upon you, file with the clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed, the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only, such claim may be so treated as to the part not contested.

And further take notice that, unless you endorse upon such affidavit filed by you a statement of some place in, or within three miles of the county town of the said county at which service may be made upon you, or the address of some solicitor in Ontario who may be served on your behalf, service may be made upon you of any notice, paper or document by sending it by registered mail addressed to you at the said county town.

Dated the.....day of....., 19....

A. B.

Claimant

*NOTE.—If further time is given by a judge, the notice should be varied accordingly.

R.S.O. 1970, c. 97, Form 3.

FORM 4

Creditors' Relief Act

(Section 8 (5))

AFFIDAVIT OF SERVICE OF CLAIM

In the County Court of the County of.....

A.B......, Claimant

and

C.D......, Debtor

I, *G. H.*, of....., in the County of....., make oath and say:

1. That I did, on the.....day of....., 19....., personally serve *C. D.*, the above-named debtor (*or as the case may be*) with an original affidavit, identical with the annexed affidavit, and that there was, at the time of such service, attached to (*or endorsed upon*) the said affidavit so served a true copy of the notice addressed to the debtor, now attached to (*or endorsed upon*) the said annexed affidavit.

Sworn, etc.

G. H.

R.S.O. 1970, c. 97, Form 4.

FORM 5

Creditors' Relief Act

(Section 9 (1); Section 17)

CERTIFICATE OF PROOF OF CLAIM

In the County Court of the County of.....

A.B....., Claimant

and

C.D....., Debtor

I,, Clerk of the County Court of
the County of....., do hereby certify:

1. That the above-named claimant did on the.....day
of....., 19...., file with me a claim against the above-
named debtor, for the sum of..... together
with an affidavit of personal service thereof (*or as the case requires*) and of
the notice required by the *Creditors' Relief Act*, upon the said debtor,
and that it thereby appears that such service was made on the.....
day of....., 19.....

2. That the debtor has not contested the said claim (*or, has only*
contested the sum of..... part of the said claim
(*as the case may be*), and that the claimant having abandoned such part
is entitled to the residue of his claim, being the sum of.....
and the further sum of..... for costs) (*Or when the claim*
is contested in whole or in part, that the claim has been allowed by the judge
at the sum of \$....., with \$..... for costs.)

G. H.

Clerk

R.S.O. 1970, c. 97, Form 5.

FORM 6

Creditors' Relief Act
(Section 30)

SHERIFF'S STATEMENT OF EXECUTIONS, ETC., IN HIS HANDS AGAINST
C.D.

CAUSE	Proceedings	Claim without Costs	Costs	Date of Receipt by Sheriff	Amount Levied or Received	Date of Levy or Receipt
		\$	\$		\$	
A. B. v C. D.	Fi. fa. goods and lands	504	30	18th Feb., 19 .	500	1st May, 19 .
F. G. v C. D. & E. G.	Fi. fa. goods and lands	400	20	1st March, 19 .	300	3rd May, 19 . Nothing made against E. G.
K. L. v C. D.	Garnishment order	500	30		300	9th May, 19 .
M. N. v C. D.	Creditor's Certificate	400	5	15th May, 19 .		

R.S.O. 1970, c. 97, Form 6.

FORM 7

Creditors' Relief Act
(Section 32 (8))

NOTICE OF CONTESTATION OF SCHEME OF DISTRIBUTION

In the County Court of the County of.....

A. B....., Claimant

and

C. D....., Debtor

To C. D., debtor, and F. G. and M. N., claimants.

Take notice that I contest the scheme of distribution prepared by the Sheriff of the County of.....in respect of the claims of you, the said F. G. and M. N., on the following ground (*state distinctly the ground*), and a copy of the judge's appointment to adjudicate upon the matter is served herewith.

Dated the.....day of, 19....

X. Y.

Contestant

R.S.O. 1970, c. 97, Form 7.

CHAPTER 104

Crop Insurance Act (Ontario)

1. In this Act,

Interpre-
tation

- (a) "Commission" means The Crop Insurance Commission of Ontario;
- (b) "contract of insurance" means a contract of insurance under a plan;
- (c) "Fund" means the Ontario Crop Insurance Fund;
- (d) "insurable crop" means an agricultural crop designated as an insurable crop by the regulations;
- (e) "Minister" means the Minister of Agriculture and Food;
- (f) "plan" means a plan of crop insurance established by the regulations;
- (g) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 98, s. 1.

2.—(1) The Crop Insurance Commission of Ontario is continued as a corporation without share capital responsible to the Minister.

Crop
Insurance
Commission
of Ontario
continued

(2) The Commission shall be composed of not fewer than five members who shall be appointed by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman and one as vice-chairman.

Chairman
and vice-
chairman

(4) Three members of the Commission, of whom one shall be the chairman or the vice-chairman, constitute a quorum.

Quorum

(5) Such members of the Commission as are not officers in the public service of Ontario shall receive such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

Remunera-
tion

Liability

(6) No member of the Commission and no officer or other employee of the Commission is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act or the regulations.

R.S.O. 1980,
c. 95 does
not apply

(7) The *Corporations Act* does not apply to the Commission. R.S.O. 1970, c. 98, s. 2.

General
manager
and staff

3.—(1) A general manager of the Commission and such other officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Commission may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

Duties of
general
manager

(2) The general manager of the Commission shall be the chief administrative officer of the Commission, and the Commission may delegate to the general manager such of its powers and duties under this Act as it considers advisable.

Professional
assistance

(3) The Commission may engage persons other than those appointed under subsection (1) to provide professional, technical or other assistance to or on behalf of the Commission. R.S.O. 1970, c. 98, s. 3.

Functions of
Commission

4. It is the function of the Commission and it has power,

- (a) to administer plans of crop insurance established by the regulations;
- (b) to conduct surveys and research programs relating to crop insurance and to obtain statistics for the purposes of the Commission;
- (c) to evaluate losses and pay claims under plans of crop insurance;
- (d) to enter into agreements with or retain persons for the soliciting and receiving of applications for insurance, the collecting of premiums and the adjusting of claims under plans for and on behalf of the Commission, and the doing of such other things on its behalf as the Commission considers necessary;
- (e) to reinsure with any other insurer the risk or any portion thereof under its contracts of insurance under any plan;
- (f) to require an applicant for crop insurance or an insured person to furnish such information, statements and reports as the Commission requires from time to time;

- (g) to administer this Act and the regulations;
- (h) to exercise such powers and perform such duties as are conferred or imposed upon it by or under this or any other Act; and
- (i) to perform such other functions and discharge such other duties as are assigned to it from time to time by the Lieutenant Governor in Council. R.S.O. 1970, c. 98, s. 4.

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations establishing, amending and revoking voluntary plans for the insurance within Ontario of insurable crops, and governing the terms and conditions of insurance under any plan and, without restricting the generality of the foregoing,

- (a) designating perils for the purposes of any plan;
- (b) determining coverage and establishing values with respect to insurable crops for the purposes of any plan;
- (c) fixing premium rates and providing for the payment and collection of premiums in respect of any plan;
- (d) prescribing forms and providing for their use, and requiring any information given in a form to be verified by statutory declaration;
- (e) fixing a final date in each year for the receipt of applications for crop insurance under any plan;
- (f) requiring applicants for crop insurance and insured persons to furnish such information, statements and reports as are prescribed;
- (g) designating insurable persons for the purposes of any plan.

(2) A plan may apply to one or more insurable crops, and the plan or any provisions thereof may apply to all of Ontario or to any area within Ontario.

(3) A plan may provide for insurance against loss arising when the seeding or planting of land intended to be used to grow an insured crop is prevented by a peril designated in the regulations. R.S.O. 1970, c. 98, s. 5.

Regulations
by
Commission

6.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations establishing, amending and revoking voluntary plans providing for the insurance within Ontario against loss arising when the seeding or planting of land to an agricultural crop is prevented by excess ground moisture, weather or other agricultural hazards, and the provisions of subsection 5 (1) apply with necessary modifications with respect to any plan.

Application
of regulations

(2) A plan or any provisions thereof may apply to all of Ontario or to any area within Ontario. 1971, c. 28, s. 1.

Regulations
by
Lieutenant
Governor
in Council

7.—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating any agricultural crop as an insurable crop;
- (b) providing for the appointment of arbitrators, determining the constitution of boards of arbitration and regulating the practice and procedure of such arbitrators or boards of arbitration;
- (c) providing for the arbitration by an arbitrator or by a board of arbitration of disputes arising out of the adjustment of losses;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Decision of
arbitrator or
board of
arbitration
final

(2) The decision of an arbitrator or a board of arbitration under the regulations is final. R.S.O. 1970, c. 98, s. 6.

Payment
of premiums

8.—(1) All moneys required by this Act to be paid in respect of premiums under plans and all moneys due under agreements of reinsurance shall be paid to the Commission.

Subsidy

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to pay to the Commission out of the Consolidated Revenue Fund a sum equivalent to such percentage of the premiums payable under any plan or plans as the Lieutenant Governor in Council may determine. R.S.O. 1970, c. 98, s. 7.

Advances

9. If at any time the amount standing to the credit of the Fund is insufficient for the purpose of making payments for claims under plans, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to advance to the Commission out of the Consolidated Revenue Fund such

sums as are necessary to meet the deficit on such terms and conditions as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 98, s. 8.

10.—(1) The Commission shall establish and maintain in a chartered bank a fund, to be known as the Ontario Crop Insurance Fund, to which shall be credited the moneys received by the Commission under sections 8 and 9. Ontario Crop Insurance Fund

(2) The Commission shall pay out of the Fund all moneys required for, Payments out of Fund

(a) the payment of claims under plans;

(b) the payment of premiums for reinsurance; and

(c) the repayment of advances made under section 9.
R.S.O. 1970, c. 98, s. 9.

11. The Commission may pay into the Consolidated Revenue Fund any surplus moneys in the Fund that are not necessary for the current requirements of the Commission, and section 7 of the *Financial Administration Act* applies thereto. R.S.O. 1970, c. 98, s. 10. Surplus R.S.O. 1980, c. 161

12. The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Commission and to the Minister. R.S.O. 1970, c. 98, s. 11. Audit

13.—(1) The Commission shall make an annual report of the affairs of the Commission to the Minister. Annual report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 98, s. 12. Tabling

14.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada as provided for in the *Crop Insurance Act* (Canada). Agreements with Canada R.S.C. 1970, c. C-36

(2) Notwithstanding anything in this Act, no crop insurance plan shall be established unless an agreement made under subsection (1) applies to the plan. R.S.O. 1970, s. 98, s. 13. Extent of plans

15. The *Insurance Act* does not apply to any matter or thing done by or under this Act. R.S.O. 1970, c. 98, s. 14. R.S.O. 1980, c. 218 does not apply

Moneys

16. The moneys required for the purposes of administering this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 98, s. 15.

CHAPTER 105

Crown Administration of Estates Act

1. Where in the case of a person dying intestate or intestate as to some part of his estate it appears that in respect of the interest of Her Majesty administration may be rightfully granted to her nominee, a competent court, upon application of the Public Trustee, may grant administration to the Public Trustee for the use and benefit of Her Majesty. R.S.O. 1970, c. 99, s. 1.

Where administration may issue to Public Trustee

2. Where a person dies in Ontario intestate without leaving any known next of kin living in Ontario or where the only next of kin are minors and there is no near relative in Ontario willing and competent to apply for a grant of administration or to nominate some person to apply for such a grant, the Public Trustee may apply for letters of administration, general or limited, of the estate of such person and a competent court upon the application may grant administration to the Public Trustee for the use and benefit of Her Majesty or of such persons as ultimately appear to be entitled thereto. R.S.O. 1970, c. 99, s. 2.

Administration where intestate leaves no known adult next of kin in Ontario

3.—(1) Notice of every application for letters of administration of the estate of a person who has died in Ontario intestate and without leaving any known adult next of kin living in Ontario shall be given by the registrar of the surrogate court to the Public Trustee before the issue of letters of administration to any other person, and the Public Trustee may, within thirty days after the receipt of the notice, apply for a grant of letters of administration as provided in section 2.

Notice to Public Trustee

(2) Where the Public Trustee consents, letters of administration may issue to the applicant without waiting for the expiry of thirty days. R.S.O. 1970, c. 99, s. 3.

Letters of administration within 30 days

4. It is not necessary for the Public Trustee to give security for the due administration of the estate, but he has all the rights and powers of and is subject to all the liabilities and duties imposed on an administrator. R.S.O. 1970, c. 99, s. 4.

Security dispensed with

5. Where administration is granted to the Public Trustee, the Lieutenant Governor in Council may direct the sale,

Power to sell the real estate of the intestate

by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled, and the Public Trustee is thereupon authorized to sell in accordance with the directions of the order in council the whole or any part of the real estate or interest and to convey it to the purchaser, and every conveyance by the Public Trustee is as valid and effectual as if the deceased were alive and unmarried at the time of its making and had executed it. R.S.O. 1970, c. 99, s. 5 (1), *revised*.

Rights of
relatives
after the
issue of ad-
ministration

6. Where after the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee, subject to the direction of the Lieutenant Governor in Council, may exercise all or any of the powers by this Act conferred until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased, and, notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Public Trustee of a conveyance, and, until the revocation of the letters granted, the Public Trustee may exercise fully all the powers vested in him as administrator. R.S.O. 1970, c. 99, s. 6.

Inquiry as to
the rights of
Her Majesty

7. Where administration is granted under this Act, the Public Trustee may apply to the Supreme Court for an order for the making of such inquiries as are necessary to determine whether or not Her Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin or otherwise, and any judgment pronounced upon such inquiry is, unless reversed on appeal or varied upon a substantive application to the court, final and conclusive. R.S.O., 1970, c. 99, s. 7.

Recovery by
Crown of
real estate of
persons
dying intes-
tate and
without heirs

8. Where a person dies in possession of or entitled to real estate in Ontario intestate as to such real estate without any known heirs, the Public Trustee without obtaining letters of administration may take possession of such real estate, and if necessary may bring an action, either in his own name, on behalf of Her Majesty, or in the name of Her Majesty, to recover possession of such real estate and is entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. R.S.O. 1970, c. 99, s. 8.

Application
by Public
Trustee to
compel an
account by
administra-
tor in certain
cases

9. Where a person has died intestate in Ontario and administration has been granted to a person not one of the next of kin and it is doubtful whether the intestate left any next of kin surviving him or there are no known next of kin resident

in Ontario, the Public Trustee may apply to the Supreme Court for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings the validity of any release or settlement with any alleged next of kin, and a competent court may revoke such administration and grant administration to the Public Trustee. R.S.O. 1970, c. 99, s. 9.

10. Money realized from estates to which the Public Trustee is administrator under this Act or that he has recovered under section 8 shall be kept in such bank or invested in such manner as the Lieutenant Governor in Council directs, and all such money that has been unclaimed for ten years from the death of the intestate shall be paid into the Consolidated Revenue Fund. R.S.O. 1970, c. 99, s. 10.

Disposition
of moneys

11. Any person proving title to such money is entitled to receive it with interest at such rate as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 99, s. 11.

Interest on
money
claimed

12. Any person claiming to be entitled to any such estate or to any interest therein or to any part of the proceeds thereof may apply to the Supreme Court for an order declaring his rights with respect thereto, and the court may direct such inquiries as are necessary to determine the same, and may finally adjudicate thereon, but no application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands security. R.S.O. 1970, c. 99, s. 12.

Remedy of
persons
having
claims upon
the estate

13. The Public Trustee may deduct from the money received on account of an estate all disbursements made by him in respect of inquiries that he made before taking out letters of administration, as well as disbursements otherwise made by him in respect of the estate, and a commission for his services not exceeding 5 per cent of all moneys received by him as administrator. R.S.O. 1970, c. 99, s. 13.

Right of
Public
Trustee
to disburse-
ments and
commission

14.—(1) After having given the notice provided for by the *Trustee Act* and notwithstanding that the ten years limited by section 10 have not elapsed, the Public Trustee may pay any money remaining unclaimed in his hands into the Consolidated Revenue Fund, or may pay the money or any part thereof, or assign any personal property remaining in his hands, in accordance with any direction of the Lieutenant Governor in Council made under the *Escheats Act*.

Distribution
of assets by
Public
Trustee
R.S.O. 1980,
cc. 512, 142

(2) In such case, no claim shall be maintained against Her Majesty or the Province in respect of any money or personal

Non-liability
of Her
Majesty
and the
Province

R.S.O. 1980,
c. 142

property paid over or assigned to any person under the *Escheats Act* or under this Act, but this does not prejudice the right of a creditor or claimant to follow such money, property or proceeds into the hands of the person who has received the same under the authority of an order in council. R.S.O. 1970, c. 99, s. 14.

CHAPTER 106

Crown Agency Act

1. In this Act, "Crown agency" means a board, commis-^{Interpre-}sion, railway, public utility, university, manufactory, com-^{tation}pany or agency, owned, controlled or operated by Her Majesty in right of Ontario, or by the Government of Ontario, or under the authority of the Legislature or the Lieutenant Governor in Council. R.S.O. 1970, c. 100, s. 1.

2. A Crown agency is for all its purposes an agent of^{Status of} Her Majesty and its powers may be exercised only as an agent^{Crown} of Her Majesty. R.S.O. 1970, c. 100, s. 2.

3. This Act does not affect Ontario Hydro. R.S.O. 1970,^{Ontario} c. 100, s. 3; 1973, c. 57, s. 19.^{Hydro}
^{not affected}

CHAPTER 107

Crown Attorneys Act

1.—(1) The Lieutenant Governor in Council may appoint ^{Appointment} a Crown attorney for each county and for each provisional judicial district and such Crown attorneys and assistant Crown attorneys for the Province as he considers necessary. R.S.O. 1970, c. 101, s. 1 (1).

(2) The Crown attorneys and assistant Crown attorneys ^{Special Crown attorneys} appointed for the Province or a county or provisional judicial district thereof shall act anywhere in the Province as directed by the Deputy Attorney General. R.S.O. 1970, c. 101, s. 1 (2); 1973, c. 3, s. 1.

2. The Lieutenant Governor in Council may appoint one or ^{Assistant Crown attorneys} more assistant Crown attorneys for any county or provisional judicial district who shall act under the direction of the Crown attorney and when so acting has the like powers and shall perform the like duties as the Crown attorney. R.S.O. 1970, c. 101, s. 2.

3.—(1) The Lieutenant Governor in Council may appoint a ^{Judicial District of York} Crown Attorney, a Deputy Crown Attorney and such assistant Crown attorneys as he considers necessary for the Judicial District of York who shall be known respectively as the Crown Attorney, the Deputy Crown Attorney and the Assistant Crown Attorneys for the Judicial District of York.

(2) The Deputy Crown Attorney and the Assistant Crown ^{Idem} Attorneys for the Judicial District of York shall act under the direction of the Crown Attorney for the Judicial District of York and when so acting shall have the like powers and perform the like duties as the Crown Attorney for the Judicial District of York. R.S.O. 1970, c. 101, s. 3.

4. No person shall be appointed a Crown attorney or ^{Qualification} assistant Crown attorney or act in either of such capacities who is not a member of the bar of Ontario. R.S.O. 1970, c. 101, s. 4.

5.—(1) When a Crown attorney or an assistant Crown ^{Pro tem appointments} attorney is absent or ill or is unable to perform all his duties, the Deputy Attorney General may appoint a member of the bar of Ontario to act *pro tem* as Crown attorney or

assistant Crown attorney, as the case may be, during the period that the Crown attorney or assistant Crown attorney is absent or ill or is unable to perform all his duties. R.S.O. 1970, c. 101, s. 5 (1); 1972, c. 1, s. 9 (7).

Idem

(2) When there is a vacancy in the office of Crown attorney, the Deputy Attorney General may appoint a member of the bar of Ontario to act *pro tem* as Crown attorney until the vacancy is filled by the Lieutenant Governor in Council. R.S.O. 1970, c. 101, s. 5 (2); 1972, c. 1, s. 9 (7).

Clerk of
the peace

6.—(1) Except in the Judicial District of York, every Crown attorney is *ex officio* clerk of the peace for the county or district for which he is Crown attorney.

Judicial
District
of York

(2) In the Judicial District of York, the offices of Crown attorney and clerk of the peace may be held by different persons.

Court
duties

(3) Where the offices of Crown attorney and clerk of the peace are held by the same person, the duties that the clerk of the peace is required to perform in the court room during the sittings of the court of general sessions of the peace and of the county or district court judges' criminal court shall be performed by the clerk of the county or district court. R.S.O. 1970, c. 101, s. 6 (1-3).

Pro tem
appoint-
ments

(4) When a Crown attorney is absent or ill or is unable to perform his duties as clerk of the peace, or when there is a vacancy in the office of clerk of the peace, the Deputy Attorney General may appoint another Crown attorney to act *pro tem* as clerk of the peace during the period that the Crown attorney is absent or ill or is unable to perform his duties as clerk of the peace, or until there is no longer a vacancy in the office of the clerk of the peace, as the case may be. R.S.O. 1970, c. 101, s. 6 (4); 1972, c. 1, s. 9 (7).

Provincial
prosecutors
R.S.O. 1980,
c. 418

7.—(1) The Attorney General may by order authorize persons appointed under the *Public Service Act* to be provincial prosecutors.

Qualifica-
tions

(2) A provincial prosecutor may be a person who is not a member of the bar.

Jurisdiction

(3) A provincial prosecutor shall act anywhere in Ontario as directed by the Director of Crown attorneys of the Ministry of the Attorney General. 1973, c. 134, s. 1, *part*.

Duties

(4) A provincial prosecutor shall conduct such prosecutions for provincial offences and offences punishable on summary convic-

tion as are delegated to him by the Crown attorney for the county or provisional judicial district in which the provincial prosecutor acts and shall be subject to the direction and supervision of the Crown attorney. 1973, c. 134, s. 1, *part, revised*.

(5) Every provincial prosecutor before he enters upon his ^{Oath} duties shall take and subscribe before a Crown attorney the following oath:

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of provincial prosecutor for Ontario without favour or affection to any party: So help me God.

1973, c. 134, s. 1, *part*.

8. Every Crown attorney shall give security for the due ^{Security} performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 101, s. 8.

9. Every Crown attorney and every assistant Crown attorney, before he enters upon his duties, shall take and subscribe before a judge of the county or district court of the county or district for which he is appointed the following oath: ^{Oath of office}

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown attorney (*or* assistant Crown attorney) for the County (*or* District) of.....without favour or affection to any party: So help me God.

R.S.O. 1970, c. 101, s. 9.

10.—(1) No Crown attorney or assistant Crown attorney ^{Prohibition} shall, by himself or through any partner in the practice of law, act or be directly or indirectly concerned as counsel or solicitor for any person in respect of any offence charged against such person under the laws in force in Ontario.

(2) Subsection (1) does not apply to part-time assistant Crown ^{Exception} attorneys. R.S.O. 1970, c. 101, s. 10.

11. Every Crown attorney and every provincial prosecutor ^{Attorney-General's agent} is the agent of the Attorney General for the purposes of the *Criminal Code* (Canada). R.S.O. 1970, c. 101, s. 11; 1972, c. 1, ^{R.S.C. 1970, c. C-34} s. 9 (7); 1973, c. 134, s. 2.

12. The Crown attorney shall aid in the local adminis-^{Duties:} tration of justice and perform the duties that are assigned to Crown attorneys under the laws in force in Ontario, and,

without restricting the generality of the foregoing, every Crown attorney shall,

to examine
informa-
tions, etc.

- (a) examine informations, examinations, depositions, recognizances, inquisitions and papers connected with offences against the laws in force in Ontario that the provincial judges, justices of the peace and coroners are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions may not be delayed unnecessarily or fail through want of proof;

to conduct
prosecutions

- (b) conduct, on the part of the Crown, preliminary hearings of indictable offences and prosecutions for indictable offences,

- (i) at the sittings of the Supreme Court where no law officer of the Crown or other counsel has been appointed by the Attorney General,

- (ii) at the court of general sessions of the peace,

- (iii) at the county or district court judges' criminal court, and

R.S.C. 1970,
c. C-34

- (iv) before provincial judges in summary trials of indictable offences under the *Criminal Code* (Canada),

in the same manner as the law officers of the Crown conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at such courts;

special
Crown
counsel

- (c) where a law officer of the Crown or other counsel has been appointed by the Attorney General, deliver to the Crown officer or other counsel all papers connected with the criminal business at the sittings of the Supreme Court before the opening of the court and, if required, be present at the court and assist the Crown officer or other counsel;

cases
brought
by private
prosecutors

- (d) watch over cases conducted by private prosecutors and, without unnecessarily interfering with private individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition;

- (e) where in his opinion the public interest so requires, conduct proceedings in respect of any provincial offence or offence punishable on summary conviction; summary conviction matters
- (f) when requested in writing, cause prosecutions for offences against any Act of the Legislature to be instituted on behalf of any governmental ministry or agency and conduct such prosecutions to judgment and to appeal, if so instructed; government prosecutions
- (g) where in his opinion the public interest so requires, conduct appeals to the county or district court for provincial offences and offences punishable on summary conviction; summary conviction appeals
- (h) advise justices of the peace with respect to offences against the laws in force in Ontario; justices of the peace
- (i) procure the necessary forms for the use of justices of the peace, and supply them as needed, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace; and forms
- (j) where a prisoner is in custody charged with or convicted of an offence and an application is made for bail, inquire into the facts and circumstances and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of the bail bonds where bail is ordered. R.S.O. 1970, c. 101, s. 12; 1972, c. 1, ss. 2, 9 (7), *revised*. bail

13. Where a person is committed for trial to answer a criminal charge, the committing provincial judge shall deliver or cause to be delivered without delay to the Crown attorney the informations, depositions, examinations, recognizances and papers connected with the charge, and the Crown attorney is the "proper officer of the court by which the accused is to be tried" within the meaning of the committal for trial provisions of the *Criminal Code* (Canada) and, where an information has been laid before a justice of the peace, whether proceedings have been taken thereon or not, the justice shall deliver to the Crown attorney all papers connected therewith on being required by him so to do. R.S.O. 1970, c. 101, s. 13. Provincial judges and justices to deliver informations, etc., to Crown attorney

14. Every Crown attorney, except a Crown attorney on fees, shall collect all fees payable to him as Crown attorney and clerk of the peace and remit them to the Inspector of Legal Collection and payment over of fees

Offices by cheque payable to the Treasurer of Ontario quarterly on the 1st day of January, April, July and October in each year, together with a statement showing the fees collected. R.S.O. 1970, c. 101, s. 14.

Annual
returns

15. Every Crown attorney and clerk of the peace shall, on or before the 31st day of January in every year, make to the Inspector of Legal Offices a return, verified by statutory declaration, of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. R.S.O. 1970, c. 101, s. 15.

Regulations

16. The Lieutenant Governor in Council may make regulations,

- (a) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with prosecutions instituted on behalf of any governmental ministry or agency, and providing for the payment and disposition thereof;
- (b) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with appeals to the county or district court for provincial offences and offences punishable on summary conviction, and providing for the payment thereof;
- (c) fixing the responsibility for the payment of fees and travelling allowances of Crown attorneys;
- (d) providing that counsel fees collected from defendants under the *Provincial Offences Act* shall be credited on the Crown attorney's fees that are properly payable to him by a municipality or a governmental ministry or agency;
- (e) providing fees and charges payable to Crown attorneys not otherwise provided for under this or any other Act, and providing for the payment thereof;
- (f) for carrying out the provisions of any Act imposing duties upon or touching the office of Crown attorney;
- (g) with respect to the prosecution by Crown attorneys of offenders against the laws in force in Ontario;
- (h) providing for the safekeeping, inspection and destruction of books, documents and papers of Crown attorneys;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 101, s. 16; 1972, c. 1, s. 2.

R.S.O. 1980,
c. 400

CHAPTER 108

Crown Employees Collective Bargaining Act

1.—(1) In this Act,

Interpre-
tation

- (a) “bargaining agent” means an employee organization that has representation rights under this Act;
- (b) “bargaining unit” means a unit of employees established for collective bargaining in accordance with this Act;
- (c) “board” means a board of arbitration established under this Act;
- (d) “collective agreement” means an agreement in writing between the employer and an employee organization covering terms and conditions of employment;
- (e) “Crown” means Her Majesty in right of Ontario;
- (f) “employee” means a Crown employee as defined in the *Public Service Act* but does not include,
 - (i) a member of the Ontario Provincial Police Force,
 - (ii) an employee of a college of applied arts and technology,
 - (iii) a person employed in a managerial or confidential capacity,
 - (iv) a person who is a member of the architectural, dental, engineering, legal or medical profession entitled to practise in Ontario and employed in a professional capacity,
 - (v) a student employed during the student’s regular vacation period or on a co-operative educational training program,

R.S.O. 1980,
c. 418

- (vi) a person not ordinarily required to work more than one-third of the normal period for persons performing similar work except where the person works on a regular and continuing basis,
 - (vii) a person engaged under contract in a professional or other special capacity, or for a project of a non-recurring kind, or on a temporary work assignment arranged by the Civil Service Commission in accordance with its program for providing temporary help,
 - (viii) a person engaged and employed outside Ontario,
 - (ix) a person employed in the office of the Provincial Auditor, or
 - (x) a person employed by or under the Tribunal or the Grievance Settlement Board;
- (g) "employee organization" means an organization of employees formed for the purpose of regulating relations between the employer and employees under this Act, but does not include such an organization of employees that,
- (i) receives from any of its members who are employees any money for activities carried on by or on behalf of any political party,
 - (ii) handles or pays in its own name on behalf of members who are employees any money for activities carried on by or on behalf of any political party,
 - (iii) requires as a condition of membership therein the payment by any of its members who are employees of any money for activities carried on by or on behalf of any political party,
 - (iv) supports or requires its members who are employees otherwise to support any political party, or
 - (v) discriminates against any employee because of age, sex, race, national origin, colour or religion;

- (h) "employer" means the Crown in right of Ontario;
- (i) "lock-out" includes the closing of a place of employment, a suspension of work or a refusal by the employer to continue to employ a number of employees with a view to compel or induce the employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employee organization or the employees;
- (j) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (k) "party" means the employee organization that is the bargaining agent for a bargaining unit, on the one hand, and the employer, on the other hand, and "parties" means the two of them;
- (l) "person employed in a managerial or confidential capacity" means a person who,
 - (i) is employed in a position confidential to the Lieutenant Governor, a Minister of the Crown, a judge of a provincial court, the deputy head of a ministry of the Government of Ontario or the chief executive officer of any agency of the Crown,
 - (ii) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the Government or an agency of the Crown or in the formulation of budgets of the Government or an agency of the Crown,
 - (iii) spends a significant portion of his time in the supervision of employees,
 - (iv) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
 - (v) adjudicates or determines claims for compensation which are made pursuant to the provisions of any statute,

(vi) is employed in a position confidential to any person described in subclause (i), (ii), (iii), (iv) or (v),

(vii) is employed in a confidential capacity in matters relating to employee relations including a person employed in a clerical, stenographic or secretarial position in the Civil Service Commission or in a personnel office in a ministry or agency of the Government of Ontario, or

(viii) is not otherwise described in subclauses (i) to (vii) but who in the opinion of the Tribunal should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

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c. 418

(m) "public servant" means a public servant as defined in the *Public Service Act* and "public service" has a corresponding meaning;

(n) "regulations" means the regulations made under this Act;

(o) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or interfere with work or services;

(p) "Tribunal" means the Ontario Public Service Labour Relations Tribunal. 1972, c. 67, s. 1 (1); 1974, c. 135, s. 1, *revised*.

Employer
representa-
tive

(2) The employer may be represented, in the case of the public service, by the Management Board of Cabinet, and in the case of an agency of the Crown, by the body designated by the regulations.

No loss of
employment
by lock-out,
etc.

(3) No employee shall be deemed to have ceased to be employed by reason only of his ceasing to work for the employer as a result of a lock-out contrary to section 27 or by reason only of his being dismissed by the employer contrary to this Act or to a collective agreement. 1972, c. 67, s. 1 (2, 3).

REPRESENTATION RIGHTS

2.—(1) Where no employee organization has representation rights in respect of a unit of employees that the employee organization claims to be appropriate for collective bargaining, an employee organization may apply at any time to the Tribunal for representation rights as bargaining agent of the employees in such unit. Application for representation rights

(2) Where a collective agreement is for a term of not more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement. Idem

(3) Where a collective agreement is for a term of more than three years, an employee organization may apply to the Tribunal for representation rights as bargaining agent of the employees in the bargaining unit only during the thirty-day period immediately prior to the last ninety days, Idem

(a) of the operation of the third year of the agreement;

(b) of each year that the agreement continues to operate after the third year; or

(c) of the termination of the agreement.

(4) Every application for representation rights shall be accompanied by the financial statement of the employee organization for the latest complete fiscal year or, if the employee organization has not been in existence for a complete fiscal year, for the period it has been in existence, and an affidavit both in the same form as required under subsections 47 (1) and (2). Application to include financial statement

(5) Every employee organization designated by the regulations shall be deemed to have been granted representation rights under this Act on the 29th day of December, 1972 in relation to such bargaining unit or units as are designated by the regulations. 1972, c. 67, s. 2, *revised*. Representation rights

3.—(1) Upon an application for representation rights, the Tribunal shall, subject to subsection (2), determine the unit of employees that is appropriate for collective bargaining purposes under this Act. Tribunal to establish appropriate unit of employees

(2) The bargaining units designated in the regulations are appropriate units for collective bargaining purposes under this Act. 1972, c. 67, s. 3. Existing units appropriate for collective bargaining

Rep-
resentation
vote

4.—(1) Upon an application for representation rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Tribunal upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken.

Result of
vote

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Tribunal shall grant representation rights to the employee organization as the bargaining agent of the employees in the bargaining unit. 1972, c. 67, s. 4.

Pre-hearing
vote

5.—(1) Upon an application for representation rights, the employee organization may request that a pre-hearing representation vote be taken.

Voting
constituency

(2) Upon such a request being made, the Tribunal may, subject to subsection 3 (2), determine a voting constituency and, if it appears to the Tribunal on an examination of the records of the employee organization and the records of the employer that not less than 35 per cent of the employees in the voting constituency are members of the employee organization at the time the application was made, the Tribunal may direct that a representation vote be taken among the employees in the voting constituency.

Sealing of
ballot boxes

(3) The Tribunal shall direct that the ballot box containing the ballots cast in a representation vote taken under subsection (2) shall be sealed and that the ballots shall not be counted until the parties have been given full opportunity to present their evidence and make their submissions.

Effect
of vote

(4) After a representation vote has been taken under subsection (2), the Tribunal shall determine the unit of employees that is appropriate for collective bargaining and, if it is satisfied that not less than 35 per cent of the employees in the bargaining unit are members of the employee organization at the time the application was made, the representation vote taken under subsection (2) shall be deemed to be a representation vote taken under subsection 4 (2). 1974, c. 135, s. 2.

Certain
employee
organiza-
tions not
to have rep-
resentation
rights

6. The Tribunal shall not grant representation rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Tribunal, participation by the employer or any person acting on behalf

of the employer of such a nature as to impair the employee organization's fitness to represent the interests of employees in the bargaining unit. 1972, c. 67, s. 5.

NEGOTIATION OF AGREEMENTS

7. Upon being granted representation rights, the employee organization is authorized to bargain with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection 18 (1), and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to an employee for miles travelled when he is required to use his own automobile on the employer's business, benefits pertaining to time not worked by employees including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, promotions, demotions, transfers, lay-offs or reappointments of employees, the procedures applicable to the processing of grievances, the classification and job evaluation system, and the conditions applicable to leaves of absence for other than any elective public office or political activities or training and development. 1974, c. 135, s. 3.

Bargaining
authority

8.—(1) Upon being granted representation rights under section 4, the employee organization may give the employer written notice of its desire to bargain with the view to making a collective agreement.

Notice of
desire to
bargain

(2) The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to make a collective agreement. 1972, c. 67, s. 7.

Obligation
to bargain

MEDIATION

9.—(1) Where notice has been given under section 8 or 22, following consultation with the parties, the Tribunal may, when advised in writing by either party that the parties are unable to reach agreement, prescribe such mediation procedure as the Tribunal decides will be most effective to realize a collective agreement.

Mediation

(2) In the exercise of its power under subsection (1), the Tribunal may appoint such person or persons as it may determine to be appropriate in order to give effect to the procedure prescribed by the Tribunal. 1974, c. 135, s. 4, *part*.

Appointment

ARBITRATION

When
matters
may be
determined
by
arbitration
board

10. If a collective agreement is not realized in accordance with the procedure prescribed by the Tribunal within thirty days after the appointment of the person or persons under subsection 9 (2), or such longer period as the Tribunal may direct or the parties may agree upon, or if the Tribunal decides that the establishment of such procedure will not be effective, all matters in dispute coming within the scope of collective bargaining under this Act shall be decided by a board of arbitration in accordance with this Act. 1974, c. 135, s. 4, *part, revised*.

Appointment
of members
of board
by parties

11.—(1) Upon written notification by the Tribunal, each of the parties shall, within ten days of the notification, appoint to a board of arbitration a member who has indicated his willingness to act and shall each notify in writing the other party and the Tribunal of the name and address of the member so appointed.

Appointment
by Tribunal
upon failure
of party to
appoint
representa-
tive

(2) Where a party fails to appoint a member of a board within the period of ten days mentioned in subsection (1), the Tribunal shall appoint as a member such person as the Tribunal considers suitable.

Appointment
of chairman

(3) The two members so appointed shall, within five days after the appointment of the second of them, appoint a third person to act as chairman of the board of arbitration and shall notify the Tribunal of the name and address of the chairman, and where no chairman is agreed upon within such time, the members or either of them, shall notify the Tribunal which shall appoint the chairman.

Disqualifica-
tion

(4) No person shall be appointed a member of a board who has any direct pecuniary interest in the matters coming before it or who is acting or has, within a period of six months immediately preceding the date of his appointment, acted as solicitor, counsel or agent of either of the parties.

Vacancy

(5) Where a member appointed under subsection (1) or (2) ceases to act by reason of resignation, death or otherwise before the board has completed its work, the party whose point of view the member represented shall, within ten days of the member so ceasing to act, appoint a replacement and notify in writing the other party and the Tribunal of the name and address of the replacement, and where the party fails to so appoint a replacement or to notify the Tribunal, the Tribunal shall appoint as a replacement such person as the Tribunal considers suitable and the board of arbitration shall continue to function as if the replacement member were a member of the board from the beginning.

(6) Where the chairman of a board is unable to enter on or to carry on his duties so as to enable the board to render a decision within a reasonable time after its establishment, the Tribunal shall appoint a person to act as chairman in his place and the arbitration shall begin anew.

Chairman
unable to act

(7) The chairman and the members of a board shall be paid such remuneration and allowance for expenses as the Lieutenant Governor in Council may determine. 1974, c. 135, s. 5.

Remunera-
tion

(8) A board shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Procedure

(9) If the members of a board are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Idem

(10) The decision of a majority of the members of a board is the decision of the board, but, if there is no majority, the decision of the chairman is the decision of the board.

Decision

(11) A board has all the powers of the Tribunal,

Powers of
board

(a) to summon and enforce the attendance of witnesses and to compel them to give oral or written evidence on oath or affirmation;

(b) to administer oaths and affirmations; and

(c) to accept or exclude any oral testimony, document or other thing.

(12) A board may,

Idem

(a) enter any premises of the employer where work is being done or has been done by the employees or in which the employer carries on business or where anything is taking place or has taken place concerning any of the differences submitted to it or him, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any such thing or any of such differences; and

- (b) authorize any person to do anything that the board may do under clause *a* and to report thereon to the board. 1972, c. 67, s. 10 (9-13).

Duty of
board

12.—(1) The board shall examine into and decide on matters that are in dispute within the scope of collective bargaining under this Act. 1972, c. 67, s. 11 (1).

Factors to
be taken
into account
by board

(2) In the conduct of proceedings before it and in rendering a decision in respect of a matter in dispute, the board shall consider any factor that to it appears to be relevant to the matter in dispute including,

- (a) the needs of the Crown and its agencies for qualified employees;
- (b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the board may consider relevant;
- (c) the desirability to maintain appropriate relationships in the conditions of employment as between classifications of employees; and
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered. 1972, c. 67, s. 11 (2); 1974, c. 135, s. 7.

Reference
back to
board

(3) The board may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the board, amend, alter or vary the decision where it is shown to the satisfaction of the board that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision.

R.S.O. 1980,
cc. 25, 484
not to
apply

(4) The *Arbitrations Act* and the *Statutory Powers Procedure Act* do not apply to arbitrations under this Act. 1972, c. 67, s. 11 (3, 4).

Where
agreement
reached

13.—(1) Where, during the bargaining under this Act or during the proceedings before the board, the parties agree on all the matters to be included in a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement under this Act.

(2) Where, during the bargaining under this Act or during the proceedings before the board, the parties have agreed upon some matters to be included in the collective agreement and they have so notified the board in writing, the board's decision, except as otherwise agreed by the parties, shall be confined to the matters not agreed upon by the parties, and, if, following the rendering of the decision, the parties fail to agree on the terms of a collective agreement within ten days after the release of the decision or within such longer period as may be agreed upon by the parties, the board shall prepare a document giving effect to the agreement of the parties and its decision and shall submit the document to the parties for execution.

Decision
of board

(3) The board shall, in its decision, fix the time within which and the place where the parties shall execute the document.

Idem

(4) If the parties or either of them fail to execute the document within such time as is fixed by the decision, the board may order that the document be in effect as though it had been executed by the parties, and the document thereupon constitutes a collective agreement under this Act, effective from the day designated in the order or, failing such designation, from the day upon which the order was made. 1972, c. 67, s. 12.

Failure to
execute
agreement

14. No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation. 1972, c. 67, s. 13.

Agreement
not to
require
legislative
implementa-
tion

15. Every collective agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies. 1972, c. 67, s. 14.

Employee
organization
as exclusive
bargaining
agent

16.—(1) The parties to a collective agreement may provide for the payment by the employees of dues or contributions to the employee organization.

Payment of
dues to
employee
organization

(2) Where the Tribunal is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Tribunal shall order that the provisions of the collective agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization

Where
objection to
dues because
of religious
belief

R.S.C. 1952,
c. 148

mutually agreed upon by the employee and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Tribunal.

Requiring
membership
in employee
organization
prohibited

(3) No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization. 1972, c. 67, s. 15.

Minimum
term of
agreements

17.—(1) If a collective agreement does not provide for its term of operation, or provides for its operation for an unspecified term, it shall be deemed to provide for a term of two years. 1972, c. 67, s. 16 (1).

Where board
to determine
term of
agreement

(2) If the parties fail to agree on the term of a collective agreement, the board shall determine its term of operation. 1974, c. 135, s. 8.

Early
termination
of collective
agreements

(3) A collective agreement shall not be terminated by the parties before it ceases to operate in accordance with its provisions or this Act without the consent of the Tribunal on the joint application of the parties. 1972, c. 67, s. 16 (3).

Functions of
employer

18.—(1) Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine,

(a) employment, appointment, complement, organization, assignment, discipline, dismissal, suspension, work methods and procedures, kinds and locations of equipment and classification of positions; and

(b) merit system, training and development, appraisal and superannuation, the governing principles of which are subject to review by the employer with the bargaining agent,

and such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

Grievances

(2) In addition to any other rights of grievance under a collective agreement, an employee claiming,

(a) that his position has been improperly classified;

(b) that he has been appraised contrary to the governing principles and standards; or

(c) that he has been disciplined or dismissed or suspended from his employment without just cause,

may process such matter in accordance with the grievance procedure provided in the collective agreement, and failing final determination under such procedure, the matter may be processed in accordance with the procedure for final determination applicable under section 19. 1974, c. 135, s. 9, *part*.

19.—(1) Every collective agreement shall be deemed to provide that in the event the parties are unable to effect a settlement of any differences between them arising from the interpretation, application, administration or alleged contravention of the agreement, including any question as to whether a matter is arbitrable, such matter may be referred for arbitration to the Grievance Settlement Board and the Board after giving full opportunity to the parties to present their evidence and to make their submissions, shall decide the matter and its decision is final and binding upon the parties and the employees covered by the agreement. Arbitration
of disputes
under
agreement

(2) The Grievance Settlement Board has the same powers as a board of arbitration under subsections 11 (11) and (12). Powers

(3) Where the Grievance Settlement Board determines that a disciplinary penalty or dismissal of an employee is excessive, it may substitute such other penalty for the discipline or dismissal as it considers just and reasonable in all the circumstances. 1974, c. 135, s. 9, *part*. Penalty
where
employee
disciplined,
etc.

(4) Where, in exercising its authority under subsection (3), the Grievance Settlement Board finds that an employee who works in a facility, Idem,
employee
who works
in a
facility

(a) has applied force to a resident in the facility, except the minimum force necessary for self-defence or the defence of another person or necessary to restrain the resident; or

(b) has sexually molested a resident in the facility,

the Grievance Settlement Board shall not provide for the employment of the employee in a position that involves direct responsibility for or that provides an opportunity for contact with residents in a facility, but the Board may provide for the employment of the employee in another substantially equivalent position.

(5) In subsection (4),

Interpre-
tation

(a) "facility" means,

(i) a children's mental health centre under the *Children's Mental Health Services Act*,

R.S.O. 1980,
c. 69

R.S.O. 1980,
c. 118

(ii) a facility under the *Developmental Services Act*,

R.S.O. 1980,
c. 129

(iii) The Ontario School for the Deaf, The Ontario School for the Blind or a school for the deaf or a school for the blind continued or established under section 12 of the *Education Act*,

R.S.O. 1980,
c. 262

(iv) a psychiatric facility under the *Mental Health Act*,

R.S.O. 1980,
c. 275

(v) a correctional institution under the *Ministry of Correctional Services Act*,

R.S.O. 1980,
c. 398

(vi) an observation and detention home under the *Provincial Courts Act*, or

R.S.O. 1980,
c. 508

(vii) a training school under the *Training Schools Act*; and

(b) "resident" means a person who is an inmate, patient, pupil or resident in or is detained or cared for in a facility. 1978, c. 79, s. 1.

Enforcement
of
arbitration
decisions

(6) Where a party or an employee has failed to comply with any of the terms of the decision of the Grievance Settlement Board, any party or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1974, c. 135, s. 9, *part*.

Composition
of Grievance
Settlement
Board

20.—(1) There shall be a Grievance Settlement Board composed of a chairman, one or more vice-chairmen and an equal number, that shall be determined by the Lieutenant Governor in Council, of members representing the employees that are represented by a bargaining agent and members representing the employer.

Appointment
of chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall appoint, for a term of not more than two years and may reappoint for one or more subsequent terms of not more than two years each, the chairman and the vice-chairman or vice-chairmen after requesting and considering the views, if any, of each bargaining agent.

(3) The members who are representative of the employer shall be appointed by the Lieutenant Governor in Council and the members who are representative of the interests of employees shall be appointed by the Lieutenant Governor in Council after requesting and considering the views, if any, of each bargaining agent and such appointments shall be for a term of not more than two years and a member may be reappointed for one or more subsequent terms of not more than two years each.

Appointment
of members

(4) The Grievance Settlement Board may sit in two or more panels as decided and assigned by the chairman so long as a quorum is present in each panel.

Sittings
of Grievance
Settlement
Board

(5) The chairman or a vice-chairman, one member representative of employee interest and one member representative of employer interest constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Grievance Settlement Board.

Quorum

(6) The decision of a majority of the members present and constituting a quorum is the decision of the Grievance Settlement Board, and, if there is no majority, the decision of the chairman or vice-chairman governs.

Decision

(7) Where a member of the Grievance Settlement Board resigns, he may carry out and complete any duties or responsibilities and exercise any powers that he would have had if he had not ceased to be a member in connection with any matter in respect of which there was any proceeding in which he participated as a member of the Grievance Settlement Board.

Completion
of member's
duties

(8) The Grievance Settlement Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Grievance Settlement Board may, subject to the approval of the Lieutenant Governor in Council, make regulations governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

Procedure

(9) The Lieutenant Governor in Council may appoint a registrar, such other officers and such staff and persons as are required for the purposes of the Grievance Settlement Board and they shall exercise such powers and perform such duties as are conferred upon them by the Grievance Settlement Board.

Appointment
of Grievance
Settlement
Board's
officers

(10) The chairman, the vice-chairman or vice-chairmen and the members, the officers and staff of the Grievance

Remunera-
tion

Settlement Board shall be paid such remuneration and allowance for expenses as the Lieutenant Governor in Council may determine.

Official
seal

(11) The Grievance Settlement Board shall have an official seal.

Grievance
Settlement
Board's
office and
meetings

(12) The office of the Grievance Settlement Board shall be in the City of Toronto, but the Grievance Settlement Board may sit at such other places as it considers expedient. 1974, c. 135, s. 9, *part*.

OPERATION OF AGREEMENTS

Binding
effect of
agreement

21.—(1) A collective agreement is, subject to and for the purposes of this Act, binding upon the employer, upon the employee organization that is a party thereto and upon the employees in the bargaining unit covered by the agreement.

Application
of subs. (1)
to existing
agreements

(2) Subsection (1) applies to every collective agreement covering a bargaining unit to which subsection 3 (2) applies which is in operation on the 29th day of December, 1972. 1972, c. 67, s. 19.

Notice of
desire to
bargain for
renewal
or new
agreement

22.—(1) Either party to a collective agreement desiring to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or the making of a new agreement, may, only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement, give notice in writing thereof to the other party accompanied by a statement in writing of its proposed modifications, if any. 1972, c. 67, s. 20.

Obligation
to bargain

(2) The parties shall meet within fifteen days from the giving of the notice or within such further period as the parties agree upon and they shall bargain in good faith and make every reasonable effort to renew the collective agreement. 1974, c. 135, s. 11.

Conditions
in effect
when notice
to bargain
given not
to be
altered

23.—(1) Where notice has been given by the employee organization under section 8, the conditions then in effect applicable to or binding upon the employer, the employee organization or the employees which are subject to collective bargaining within the meaning of this Act shall not be altered without the consent of the employer, the employee organization or the employees, as the case may be.

Agreement
to continue
after notice
to bargain
for renewal
or new
agreement

(2) Where notice has been given by either party to a collective agreement under section 22, except as altered by an agreement in writing of the parties, the terms and provisions of the agreement then in operation shall continue to operate

until a new agreement entered into pursuant to the provisions of this Act is in operation. 1972, c. 67, s. 21.

TERMINATION OF REPRESENTATION RIGHTS

24.—(1) If an employee organization does not enter into a collective agreement with the employer within one year after being granted representation rights or fails to give notice of its intention to bargain as provided under section 22 and no such notice has been given by the employer, the employer or any employee in the bargaining unit concerned may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit.

Application
for termina-
tion of rep-
resenta-
tion rights

(2) Any employee in the bargaining unit covered by a collective agreement may apply to the Tribunal for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the period between the ninetieth and one hundred and twentieth days prior to the termination of the agreement.

Idem

(3) Upon the application under subsection (2), the Tribunal shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Tribunal shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

Representa-
tion vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Tribunal shall declare that the employee organization that was granted representation rights or that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit.

Result
of vote

(5) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision of a board applying to the bargaining unit ceases to have effect. 1972, c. 67, s. 22.

Effect of
termination

25.—(1) Where the Tribunal is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Tribunal,

Termination
of rights
where
employee
organization
desires or
has ceased
to act

upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act on behalf of the employees, the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

Where lack
of qualifica-
tion or
obtained
by fraud

(2) Where the Tribunal,

- (a) upon application thereto by the employer or any employee concerned, determines that an employee organization would not, if it were applying for representation rights in respect of a bargaining unit, be granted such rights by the Tribunal by reason of failure to qualify under clause 1 (1) (g); or
- (b) is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud,

the Tribunal shall declare that the employee organization no longer represents the employees in the bargaining unit.

Effect of
termination

(3) Upon the Tribunal declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any collective agreement in operation between the employee organization and the employer that is binding upon the employees in the bargaining unit ceases to operate and any decision made by a board applying to the bargaining unit ceases to have effect. 1972, c. 67, s. 23.

PROHIBITIONS

Persuasion
at place
of work

26. No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization except as the employer and a bargaining agent may otherwise agree. 1974, c. 135, s. 12.

Strike and
lock-out
prohibited

27. The employer shall not cause a lock-out, and an employee shall not strike. 1972, c. 67, s. 25.

Suspension
or quitting
for cause not
to constitute
lock-out or
strike

28. Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. 1972, c. 67, s. 26.

Interference
with
employee
organization
prohibited

29.—(1) No person who is acting on behalf of the employer shall participate in or interfere with the selection, formation or administration of an employee organization or the rep-

resentation of employees by such an organization, but nothing in this section shall be deemed to deprive the employer or any person acting on behalf of the employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence.

(2) The employer or any person acting on behalf of the employer shall not,

Interference
with
employee's
rights
prohibited

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;
- (b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act; or
- (d) refuse to employ or continue to employ or discriminate against a person with regard to employment only because the person refused to make a contribution or expenditure to or on behalf of any political party or to or on behalf of a candidate for public office,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed in a managerial or confidential capacity.

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act. 1972, c. 67, s. 27.

Intimida-
tion and
coercion

30. An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not. 1972, c. 67, s. 28.

Duty of
fair rep-
resentation

Authorizing
or
counselling
strikes
prohibited

31. No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel, procure or support the declaration or authorization of a strike of employees or the participation of employees in a strike. 1972, c. 67, s. 29.

ENFORCEMENT

Inquiry by
investigator

32.—(1) The Tribunal may appoint an investigator with authority to inquire into a complaint that,

- (a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;
- (b) a person has been suspended, expelled or penalized in any way contrary to section 36;
- (c) an employee organization, employer or any person or persons has acted in any way contrary to section 30 or 37.

Duties

(2) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.

Report

(3) The investigator shall report the results of his inquiry and endeavours to the Tribunal.

Inquiry by
Tribunal

(4) Where an investigator is unable to effect a settlement of the matter or where the Tribunal in its discretion considers it advisable to dispense with an inquiry by an investigator, the Tribunal may inquire into the complaint and,

- (a) if the Tribunal is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the employer or by any person or employee organization it shall determine what, if anything, the employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss

of earnings and other employment benefits for which compensation may be assessed against the employer, person or employee organization, jointly or severally, and the employer, person or employee organization shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or any of them by the determination ;

- (b) if the Tribunal is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 36 it shall so declare, and thereupon the suspension, expulsion or penalty is void ; or
- (c) if the Tribunal is satisfied that the employee organization, employer, person or employee concerned has acted contrary to section 30 or 37, it shall determine what, if anything, the employee organization, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, employer, person or employee shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or it.

(5) Where the matter complained of has been settled, Effect of settlement whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, employer, person or employee who agreed to the settlement and shall be complied with according to its terms, and a complaint that the employee organization, employer, person or employee who agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause (1) (a), (b) or (c), as the case may be. 1972, c. 67, s. 30.

33. Where it is alleged that an employee organization Declaration of unlawful strike has declared or authorized a strike or that employees are engaging in a strike, the employer may apply to the Tribunal for a declaration that such action would be or is contrary to section 27, and the Tribunal, after affording an opportunity to the employer and the employee organization or to the employees, as the case may be, to be heard on the application, may make such a declaration. 1972, c. 67, s. 31.

34. Where it is alleged that the employer has declared or authorized a lock-out or is engaging in a lock-out, Declaration of unlawful lock-out any of the employees directly affected thereby or the employee

organization concerned may apply to the Tribunal for a declaration that such action was or is contrary to section 27, and the Tribunal after affording an opportunity to the employer and the employees or employee organization, as the case may be, to be heard on the application, may make such a declaration. 1972, c. 67, s. 32.

Causing
unlawful
strikes,
lock-outs

35. No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 27. 1972, c. 67, s. 33.

Refusal to
engage in
unlawful
strike

36. No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 27. 1972, c. 67, s. 34.

Protection of
witnesses'
rights

37.—(1) The employer or any person acting on behalf of the employer shall not,

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

Idem

(2) No employee organization or person acting on behalf of an employee organization shall,

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act. 1972, c. 67, s. 35.

TRIBUNAL

38.—(1) There is hereby established a tribunal to be known ^{Tribunal established} as the Ontario Public Service Labour Relations Tribunal.

(2) The Tribunal shall be composed of a chairman, one or ^{Composition of Tribunal} more vice-chairmen and an equal number, that shall be determined by the Lieutenant Governor in Council, of members representing employees and members representing the employer.

(3) The Lieutenant Governor in Council shall appoint, for ^{Appointment of chairman and vice-chairmen} a term of not more than two years and may reappoint for one or more subsequent terms of not more than two years each, the chairman and the vice-chairman or vice-chairmen after requesting and considering the views, if any, of each bargaining agent.

(4) The members of the Tribunal who are representative ^{Appointment of members} of the employer shall be appointed by the Lieutenant Governor in Council and the members who are representative of the interests of employees shall be appointed by the Lieutenant Governor in Council after requesting and considering the views, if any, of each bargaining agent and such appointments shall be for a term of not more than two years and a member may be reappointed for one or more subsequent terms of not more than two years each.

(5) The Lieutenant Governor in Council shall designate one ^{Alternate chairman} of the vice-chairmen as the alternate chairman.

(6) The chairman or, in the case of his absence from the ^{Assignment members} office of the Tribunal or his inability to act, the alternate chairman shall from time to time assign the members of the Tribunal to its various divisions and may change any such assignment at any time.

(7) Vacancies in the membership of the Tribunal from any ^{Vacancy} cause may be filled by the Lieutenant Governor in Council after requesting and considering the views, if any, of representatives of each bargaining agent.

(8) Where the chairman, a vice-chairman or a member of ^{Completion of duties} the Tribunal resigns, he may carry out and complete any duties or responsibilities and exercise any powers that he would have had if he had not resigned in connection with any matter in respect of which there was any proceeding in which he participated as the chairman, a vice-chairman or a member of the Tribunal.

Oath

(9) The chairman, each vice-chairman and each member of the Tribunal shall, before entering upon his duties, take and subscribe before the Clerk of the Executive Council and file in the office of the Clerk an oath of office in the following form:

I do solemnly swear that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of chairman, (or vice-chairman, or member) of the Ontario Public Service Labour Relations Tribunal and I will not, except in the discharge of my duties, disclose to any person any of the evidence or any other matter brought before the Tribunal. So help me God.

Quorum

(10) The chairman or a vice-chairman, one member representative of the employer and one member representative of employees constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Tribunal.

Sittings

(11) The Tribunal may sit in two or more divisions as decided and assigned by the chairman so long as a quorum is present in each division.

Decision

(12) A decision of the majority of the members of the Tribunal present and constituting a quorum is the decision of the Tribunal, but, if there is no majority, the decision of the chairman or vice-chairman presiding governs.

Procedure

(13) The Tribunal shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Tribunal may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

Appointment
of officers

(14) The Lieutenant Governor in Council may appoint a registrar, such other officers and such staff and persons as are required for the purposes of the Tribunal and they shall exercise such powers and perform such duties as are conferred or imposed upon them by the Tribunal.

Remunera-
tion

(15) The chairman, vice-chairman or vice-chairmen and the members, officers and staff of the Tribunal shall be paid such remuneration and allowance for expenses as the Lieutenant Governor in Council may determine.

Official
seal

(16) The Tribunal shall have an official seal.

Office and
sittings

(17) The office of the Tribunal shall be in the City of Toronto, but the Tribunal may sit at such other places as it considers expedient. 1974, c. 135, s. 13.

39. The Tribunal has exclusive jurisdiction to exercise the powers conferred upon it by this Act and to determine all questions of fact or law that arise in any matter before it, and, except as otherwise provided in this Act, the action or decision of the Tribunal thereon is final and binding for all purposes, but nevertheless the Tribunal may at any time, if it considers it advisable to do so, reconsider any decision, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling. 1972, c. 67, s. 37. Jurisdiction

40.—(1) If, in the course of bargaining for a collective agreement or during the period of operation of a collective agreement, a question arises as to whether a person is an employee, the question may be referred to the Tribunal and its decision thereon is final and binding for all purposes. 1972, c. 67, s. 38. Question as to whether person an employee

(2) If, in the course of bargaining for a collective agreement or during proceedings before a board of arbitration, a question arises as to whether a matter comes within the scope of collective bargaining under this Act, either party or the board of arbitration may refer the question to the Tribunal and its decision thereon is final and binding for all purposes. 1974, c. 135, s. 15. Question as to bargaining authority

41.—(1) The Tribunal shall exercise such powers and perform such duties as are conferred upon it by this Act, including power, Powers and duties of Tribunal

- (a) to enter any premises of the employer where work is being or has been done by the employees or in which the employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;
- (b) to enter upon the premises of the employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;
- (c) to authorize any persons to do anything that the Tribunal may do under clauses (a) and (b) and to inquire into any application, request, complaint, matter or thing within the jurisdiction of the Tribunal, or any part of any of them, and to report to the Tribunal thereon;

- (d) to bar an unsuccessful applicant for any period not exceeding ten months from the date of the dismissal of the unsuccessful application, or to refuse to entertain a new application by an unsuccessful applicant or by any of the employees affected by an unsuccessful application or by any person or employee organization representing such employees within any period not exceeding ten months from the date of the dismissal of the unsuccessful application;
- (e) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Tribunal on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and
- (f) to administer oaths and affirmations. 1972, c. 67, s. 39 (1); 1974, c. 135, s. 16.

Subsequent
applications
for rep-
resentation
rights, etc

(2) Notwithstanding sections 2 and 24, where an application has been made for representation rights of an employee organization as bargaining agent for employees in a bargaining unit or for a declaration that the employee organization no longer represents the employees in a bargaining unit and a final decision of the application has not been issued by the Tribunal at the time a subsequent application for such representation rights or for such a declaration is made with respect to any of the employees affected by the original application, the Tribunal may,

- (a) treat the subsequent application as having been made on the date of the making of the original application;
- (b) postpone consideration of the subsequent application until a final decision has been issued on the original application and thereafter consider the subsequent application but subject to any final decision issued by the Tribunal on the original application; or
- (c) refuse to entertain the subsequent application.

Deter-
mination of
membership

(3) Where the Tribunal is satisfied that an employee organization has an established practice of admitting persons to

membership without regard to the eligibility requirements of its charter, constitution or by-laws, the Tribunal in determining whether a person is a member of an employee organization, need not have regard for such eligibility requirements provided that any person so admitted to membership is accorded full membership status for all purposes by the employee organization.

(4) Where, in the taking of a representation vote, the Tribunal determines that the employees are to be given a choice between two or more employee organizations, Where choice between two or more employee organizations

(a) the Tribunal may include on a ballot a choice indicating that an employee does not wish to be represented by an employee organization; and

(b) the Tribunal, when it decides to hold such additional representation votes as may be necessary, may eliminate from the choice on the ballot the choice from the previous ballot that has obtained the lowest number of votes cast. 1972, c. 67, s. 39 (2-4).

42.—(1) The Tribunal may of its own motion and shall upon the request of any party state a case in writing to the Divisional Court upon any question of law. Stated case

(2) Where a case is stated under this section, the Divisional Court shall hear and determine in a summary manner the question raised. Court to hear and determine stated case

(3) Pending the decision of the Divisional Court on a case stated under this section, no further proceedings shall be taken by the Tribunal with respect to the subject-matter of the stated case but it may continue its inquiry into matters not in issue in the stated case. 1972, c. 67, s. 40. Proceedings stayed

43.—(1) The Tribunal shall determine its own practice and procedure but shall afford to the parties to any proceedings an opportunity for a hearing to present their evidence and to make their submissions, and the Tribunal may, subject to the approval of the Lieutenant Governor in Council, make rules, not inconsistent with the provisions of this Act, governing its practice and procedure and the exercise of its powers. Procedure

(2) The *Statutory Powers Procedure Act* applies to the proceedings of the Tribunal. 1972, c. 67, s. 41. Application of R.S.O. 1980, c. 484

OFFENCES

Contra-
vention of
Act by
person

44.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each day upon which such contravention occurs or continues.

Contra-
vention of
Act by
employee
organization

(2) Every employee organization that contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for every day upon which such contravention occurs or continues.

When
officers also
guilty of
offence

(3) If an employee organization is guilty of an offence under this Act, every officer or representative thereof who assented to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection (1) as if he had been convicted of an offence under subsection (1).

Informa-
tion

(4) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Consent

(5) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Tribunal, which may only be granted after affording an opportunity to the parties or to the employees, as the case may be, to be heard. 1972, c. 67, s. 42.

Prosecution
of employee
organization

45. A prosecution for an offence may be brought against an employee organization in the name of that organization, and, for the purposes of any such prosecution, an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the apparent scope of his authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization. 1972, c. 67, s. 43.

GENERAL

Trusteeship
over
employee
organization

46.—(1) If the autonomy of an employee organization is suspended under the constitution and by-laws of its parent body, written notice thereof shall be given the Tribunal by the parent body within thirty days of the commencement of such suspension together with a statement in the prescribed form, verified by the affidavit of its principal officers, setting out the terms under which supervision or control is to be

exercised and it shall, upon the direction of the Tribunal, file such additional information as the Tribunal from time to time may require.

(2) Any such supervision or control shall not continue for more than twelve months from the date of such suspension but such supervision or control may be continued for such further period as the Tribunal may prescribe. 1972, c. 67, s. 44. Duration of trusteeship

47.—(1) Every employee organization having representation rights under this Act shall, within three months after the coming into force of this Act and thereafter within three months after the end of each calendar year, file a statement with the Tribunal, certified as to the truth and accuracy thereof by the president and the treasurer, containing the following particulars: Information

- (a) the name of the organization;
- (b) the address of the headquarters of the organization in Ontario to which communications for the purposes of this Act may be directed;
- (c) the constitution and by-laws of the organization;
- (d) the name and address of each officer of the organization and the position held by each such officer;
- (e) the name and address of each officer and employee of the organization resident in Canada, other than a person performing primarily clerical or stenographic duties, the position held by each such officer and employee and the manner in which he was elected or appointed;
- (f) a financial statement for the latest complete fiscal year or, if the employee organization has not been in existence for a complete fiscal year, for the period it has been in existence, consisting of,
 - (i) a balance sheet showing the assets and liabilities of the organization made up for such fiscal year, and
 - (ii) a statement of income and expenditure for such fiscal year, in such form and containing such particulars and other information relating to the financial position of the organization as may be prescribed by the regulations.

Financial
statement
R.S.O. 1980,
c. 405

(2) Every financial statement shall be certified by a person licensed under the *Public Accountancy Act* and shall be accompanied by an affidavit completed by the president and treasurer of the employee organization affirming that throughout the fiscal period reported upon the employee organization was at all times qualified as an employee organization under this Act.

Publication
of financial
statement

(3) An employee organization having representation rights under this Act shall publish for its members its financial statement in the same form and within the same periods prescribed under subsections (1) and (2).

Copy of
agreement
to be filed
with Tribunal

(4) Each party to a collective agreement shall, forthwith after it is made, file one copy thereof with the Tribunal. 1972, c. 67, s. 45.

Enforcement
of Act

48. Any action or proceeding to restrain a contravention or otherwise enforce the provisions of this Act may be commenced in the Supreme Court after notice has been given to the employees affected by posting or publication in such manner as the Tribunal may direct, and, in the case of an employee organization, by service thereupon at the address shown in the statement required pursuant to subsection 47 (1). 1972, c. 67, s. 46.

Testimony
in civil suit

49. No chairman, vice-chairman or member of the Tribunal or of a board or of the Grievance Settlement Board and no person appointed thereby shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Act. 1974, c. 135, s. 17.

Mailed
notices

50.—(1) For the purposes of this Act and of any proceedings taken under it, any notice or communication, except in relation to a final decision or order of the Tribunal, sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee in the ordinary course of mail.

Time of
making
certain
applications

(2) An application for representation rights or for a declaration that an employee organization no longer represents the employees in a bargaining unit, if sent by registered mail addressed to the Tribunal at Toronto, shall be deemed to have been made on the date on which it was so mailed.

Time of
release of
documents

(3) A decision, determination, report, interim order, order, direction, declaration or ruling of the board, a notice from the Tribunal that it does not deem it advisable to appoint a mediator or a decision of a board,

- (a) if sent by mail to the person, employer or employee organization concerned addressed to him or it at his or its last-known address, shall be deemed to have been released on the second day after the day on which it was so mailed; or
- (b) if delivered to a person, the employer or employee organization concerned at his or its last-known address, shall be deemed to have been released on the day next after the day on which it was so delivered. 1972, c. 67, s. 48.

51.—(1) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Tribunal is for the exclusive use of the Tribunal and its officers and shall not, except with the consent of the Tribunal, be disclosed, and no person shall, except with the consent of the Tribunal, be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization. Secrecy as to union membership

(2) No information or material furnished to or received by a mediator under this Act shall be disclosed, except to the Tribunal, unless otherwise authorized by the party providing the information or material. Non-disclosure

(3) No report of a mediator shall be disclosed except to the Tribunal. Idem

(4) A mediator appointed under this Act is not a competent or compellable witness in proceedings before a court or other tribunal respecting any information, material or report mentioned in subsection (2) or (3), or respecting any information or material furnished to or received by him, or any statement made to or by him in an endeavour to effect a collective agreement. 1972, c. 67, s. 49 (1-4). Competency as witness

(5) The chairman, vice-chairman or vice-chairmen or any member of the Tribunal or of a board or of the Grievance Settlement Board is not a competent or compellable witness in proceedings before a court or other tribunal respecting, Idem

- (a) any information or material furnished to or received by him;
- (b) any evidence or representation submitted to him; or

(c) any statement made by him,

in the course of his duties under this Act. 1974, c. 135, s. 18.

Change of
name of
bargaining
agent

52. Where, upon an application by a bargaining agent for recognition of a change in the name of the bargaining agent, the Tribunal is satisfied that the change has been made in conformity with the charter or constitution of the employee organization, the Tribunal shall make an affirmative declaration and the bargaining agent shall be conclusively presumed to have retained all rights, privileges, duties and obligations whether under a collective agreement or otherwise, and the employer and the employees concerned shall recognize such status in all respects. 1974, c. 135, s. 19, *part*.

Application
for successor
bargaining
rights

53.—(1) Where an employee organization claims that by reason of a merger or a transfer of jurisdiction it is the successor of a bargaining agent, the employee organization may, notwithstanding the provisions of subsections 2 (2) and (3) and subsection 21 (1), make application to the Tribunal for recognition as the successor bargaining agent and for the Tribunal to conduct a vote of employees to determine if they are in favour of the employee organization being granted representation rights as the successor bargaining agent for the bargaining unit concerned.

Tribunal
inquiry

(2) The Tribunal may make such inquiry, including requiring the production of such evidence and the doing of such things, as it may consider appropriate.

Vote

(3) Following its inquiry under subsection (2), the Tribunal may dismiss the application or direct that a vote be taken of the employees in the bargaining unit to determine whether they favour the employee organization being granted representation rights as the successor bargaining agent.

Declaration
of successor
rights

(4) Where, on the taking of a vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Tribunal shall declare that the employee organization has acquired representation rights as successor bargaining agent of the employees in the bargaining unit.

Status of
successor
bargaining
agent

(5) Where the Tribunal makes an affirmative declaration under subsection (4), the successor bargaining agent shall for the purposes of this Act be conclusively presumed to have acquired the rights, privileges, duties and obligations of its predecessor whether under a collective agreement or otherwise, and the employer, the successor bargaining agent and the employees concerned shall recognize such status in all respects. 1974, c. 135, s. 19, *part*.

54.—(1) Where two or more existing bargaining units are merged either partially or completely, or where employees represented by a bargaining agent are transferred into a bargaining unit represented by another bargaining agent or into a unit of employees for which there is no bargaining agent, the Tribunal, on the application to it by a bargaining agent affected, may make such inquiry, including requiring the production of such evidence and the doing of such things as it may consider appropriate.

Bargaining
rights on
merger of
units or
creation of
new unit

(2) Where, following the inquiry under subsection (1), the Tribunal determines that the merged or enlarged unit of employees is appropriate for collective bargaining purposes and is satisfied that more than 50 per cent of the employees in the merged or enlarged unit of employees are members of a bargaining agent and that application has not been made by another bargaining agent affected and representing 35 per cent or more of the employees, as members, in the merged or enlarged unit of employees, it shall determine that the bargaining agent has acquired or retained, as the case may be, representation rights as the bargaining agent of the employees in the bargaining unit concerned.

Declaration
of successor
rights

(3) Where, following the inquiry under subsection (1), the Tribunal determines that the merged or enlarged unit of employees is appropriate for collective bargaining purposes and is satisfied that a bargaining agent represents not less than 35 per cent and not more than 50 per cent, of the employees in the merged or enlarged unit of employees as members, it shall direct that a representation vote be taken.

Representa-
tion vote

(4) Where an employee organization is declared to be the bargaining agent under subsection (3) and it is not already bound by a collective agreement with the employer with respect to the employees for whom it is declared to be the bargaining agent, it is entitled to give to the employer a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 8.

Notice to
bargain

(5) Where the employee organization is declared to retain representation rights by the Tribunal it shall continue to be bound by the collective agreement with the employer with respect to the employees for whom it is declared to be the bargaining agent.

Successor
bound by
existing
agreement

(6) Where an application is made under this section, notwithstanding that a notice has been given by an employee organization, the employer is not required to bargain with that employee organization concerning the employees to

Employer not
required
to bargain
pending
Tribunal
decision

whom the application relates until the Tribunal has disposed of the application and has declared which employee organization, if any, has the right to bargain with the employer on behalf of the employees concerned in the application.

Bargaining
rights of
successor
bargaining
agent

(7) A declaration made by the Tribunal under subsection (2) has the same effect as the granting of representation rights under subsection 4 (2), except as provided in subsection (5) of this section. 1974, c. 135, s. 19, *part*.

Defects in
form,
technical
irregularities

55. No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. 1972, c. 67, s. 50.

Regulations

56. The Lieutenant Governor in Council may make regulations,

- (a) designating the body to represent any agency of the Crown for the purpose of subsection 1 (2);
- (b) prescribing the form and content of a statement of income and expenditure of an employee organization;
- (c) designating,
 - (i) units of employees that are appropriate bargaining units for collective bargaining purposes under this Act, and
 - (ii) designating the employee organization that shall have representation rights in relation to each of such bargaining units,

upon the day this Act comes into force, being the 29th day of December, 1972;

- (d) prescribing forms and providing for their use. 1972, c. 67, s. 51; 1974, c. 135, s. 20.

Moneys
required
for Act

57. The moneys required by the Crown for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1972, c. 67, s. 52, *revised*.

CHAPTER 109

Crown Timber Act

1. In this Act,

Interpre-
tation

- (a) "Crown charges" includes all charges and dues in respect of Crown timber, interest, costs, expenses and penalties imposed under this Act or the regulations or by a licence, and all other charges, rents and claims of the Crown in connection with a licensed area;
- (b) "Crown timber" means timber on public lands or timber that is the property of the Crown under the management of the Minister on lands other than public lands;
- (c) "cull" means a defective log as defined by the manual of scaling instructions;
- (d) "licence" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 6 (3), includes an agreement entered into under subsection (1) of that section;
- (e) "licensed area" means the lands upon which the right to cut Crown timber is authorized by a licence;
- (f) "licensee" means a person,
 - (i) to whom a licence has been granted,
 - (ii) with whom the Minister has entered into an agreement under subsection 6 (1),
 - (iii) to whom a licence has been assigned with the consent of the Minister, or
 - (iv) in whom a licence has become vested by operation of law;
- (g) "mill" means a plant in which logs or wood-bolts are initially processed, and includes a saw mill and a pulp mill;

(*h*) "Minister" means the Minister of Natural Resources;

(*i*) "Ministry" means the Ministry of Natural Resources;

(*j*) "officer or agent" means a person employed or appointed to assist in the administration of this Act;

(*k*) "productive lands" means lands that are not rock barrens, muskeg or lands covered with water;

1957, c. 149

(*l*) "professional forester" means a person registered under *The Ontario Professional Foresters Association Act, 1957*;

R.S.O. 1980,
cc. 268, 401,
413

(*m*) "public lands" means the lands vested in Her Majesty in right of Ontario and under the management of the Minister, and includes the lands in respect of which a lease, licence of occupation or permit has been granted or issued under the *Mining Act*, the *Provincial Parks Act* or the *Public Lands Act*;

(*n*) "regulations" means the regulations made under this Act;

(*o*) "stumpage charges" means the amount equal to the total of the amount of the Crown dues and any other amounts added thereto in fixing the price to be paid for Crown timber;

(*p*) "unproductive lands" means rock barrens, muskeg or lands covered by water. R.S.O. 1970, c. 102, s. 1; 1972, c. 4, s. 12; 1979, c. 92, s. 1.

LICENCES TO CUT CROWN TIMBER

Sale of
Crown
timber by
tender

2.—(1) The Minister may offer Crown timber for sale by tender either,

(*a*) to the public generally; or

(*b*) to any particular class or group of persons who in his opinion are or may be interested in such timber as a source of supply of raw materials for mills in existence at the time the offer is made.

(2) The Minister may grant a licence to cut such timber to the person making the highest tender therefor for such period as he considers proper, subject to such terms and conditions as are prescribed in the regulations and subject to such other terms and conditions as he considers proper and that are not inconsistent with the regulations.

Licences to cut Crown timber

(3) The Minister is not obliged to accept the highest tender.

Acceptance of tenders

(4) The Minister shall not grant a licence under subsection (2) until the highest tenderer has furnished proof that he owns and is operating a mill or that he has a contract to supply wood to a mill.

Proof of ability to use timber

(5) Where the highest tenderer fails to furnish the proof mentioned in subsection (4) within thirty days of the sending to him by the Minister of notice to furnish such proof, the Minister may, subject to the furnishing of the proof mentioned in subsection (4), grant to the next highest tenderer a licence having the same terms, conditions and prices as those tendered by the highest tenderer.

Grant of licence to next highest tenderer

(6) Where a licence has been granted under subsection (2) and the cutting of the timber authorized by the licence was not completed before the licence expired, the Minister may renew the licence for one term not exceeding three years, subject to such terms and conditions as are prescribed by the regulations and subject to such other terms and conditions as he considers proper and that are not inconsistent with the regulations. R.S.O. 1970, c. 102, s. 2 (1-6).

Renewal of licence

(7) Notwithstanding subsection (1), the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. 1979, c. 92, s. 2.

Licence where licensed area not more than 160 acres

(8) Where for any reason the holder of a licence issued under subsection (2) or (6) does not operate a mill or does not supply wood from the licensed area to a mill during a period of twelve months ending on the 31st day of March in any year, the Minister may cancel the licence as of that day. R.S.O. 1970, c. 102, s. 2 (8).

Failure to operate

3.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may grant licences to cut Crown timber for such periods and subject to such terms and conditions as are prescribed by the regulations and at such prices and subject to such other terms and conditions as the Minister considers proper and that are not inconsistent with the regulations.

Licences granted with approval of Lieutenant Governor in Council

**Renewal of
licence**

(2) Where a licence has been granted under subsection (1) and the cutting of the timber authorized by the licence was not completed before the licence expired, the Minister may renew the licence for one term of one year, subject to the same terms and conditions as were contained in the licence.

**Terms and
conditions**

(3) Where a licence to cut Crown timber is granted under subsection 2 (2) or under subsection (1) or is renewed under subsection 2 (6) or under subsection (2), the Minister may,

- (a) determine from time to time the prices at which species of timber may be cut where the prices for such species are not specifically set out in the licence; and
- (b) grant to a licensee, from time to time during the term of the licence, rights to cut on the licensed area additional species not set out in the licence at such prices and upon such terms and conditions as he considers proper. R.S.O. 1970, c. 102, s. 3.

**Crown
management
units**

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon. 1979, c. 92, s. 3.

**Salvage
licences**

5.—(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper. 1979, c. 92, s. 4.

**Direction to
licensee to
cut killed
or damaged
timber**

(2) Where Crown timber in respect of which a licence has been granted has been killed or damaged, the Minister may direct the licensee to cut such timber and any other timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

**Failure or
neglect of
licensee**

(3) Where a licensee refuses or neglects to comply with a direction of the Minister under subsection (2) within such time as is fixed by the Minister, the Minister may cancel or vary the licence in respect of the timber directed to be cut

and may grant licences to persons other than the licensee to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper. R.S.O. 1970, c. 102, s. 5 (2, 3).

6.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, every such agreement shall set out,

Authority to
enter into a
forest
management
agreement

- (a) the silvicultural specifications that are to be observed and performed in respect of the harvesting, regeneration and tending of the forest areas that are subject to the agreement; and
- (b) the standards of regeneration to be achieved on the forest areas that are subject to the agreement,

and may provide for,

- (c) the cutting of Crown timber and the prices therefor;
- (d) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such prices, if any, and to such terms and conditions as the Minister and such person may agree upon;
- (e) the construction, reconstruction and maintenance of any road necessary for such management and operations;
- (f) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (g) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (h) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,

and, except in the case of a provision made under clause (d) or (f), any such agreement shall be subject to the terms and conditions prescribed in the regulations.

Meaning of
"sustained
yield"

(2) In subsection (1), the expression "sustained yield" means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut.

Certain
sections do
not apply to
agreement

(3) Subsections 5 (2) and (3), section 17, clause 20 (b), sections 26, 27, 28 and 33 and clause 48 (1) (k) do not apply in respect of an agreement entered into under subsection (1).

Tabling

(4) If the Assembly is then in session, the Minister shall,

(a) within five days after entering into an agreement under subsection (1) or an amending agreement, lay before the Assembly a copy of the agreement or amending agreement, as the case may be;

(b) after the end of each year of an agreement entered into under subsection (1), lay before the Assembly a report in respect of the areas harvested, regenerated and tended under such agreement in the year that has ended; and

(c) after the end of each term of five years of an agreement entered into under subsection (1), lay before the Assembly a report in respect of the relationship between the harvest and growth, including regeneration, of timber during the said term on the area subject to the agreement,

or, if the Assembly is not then in session, at the beginning of the next ensuing session. 1979, c. 92, s. 5.

Areas to
be stated

7.—(1) Every licence shall state the total area of the lands comprised therein and the area of the productive lands and the area of the unproductive lands included in such total area. R.S.O. 1970, c. 102, s. 6 (1).

Area
charge

(2) Every licensee shall pay annually an area charge in respect of the productive lands comprised in the licensed area. 1978, c. 51, s. 1.

Survey

8.—(1) The Minister may at any time cause a survey to be made to establish or re-establish the boundaries of any licensed area and the cost of such survey shall be borne by the licensee or, where the boundary in question is a division line between two licensed areas, the cost of such survey shall be borne by the respective licensees in such proportions as the Minister considers proper.

(2) Where it appears that Crown timber has been cut ^{Idem} without the authority of a licence and there is a dispute as to the boundaries of the area of the cutting, the Minister may cause a survey to be made to establish or re-establish such boundaries, and, where as a result of the survey it is established that Crown timber was cut without authority, the cost of the survey, in addition to any penalty that may be imposed, shall be borne by the person responsible for such cutting. R.S.O. 1970, c. 102, s. 7.

9.—(1) Every licence shall name the species of timber ^{Species and lands to be described} and describe the lands upon which such timber may be cut.

(2) If a licence is found to comprise a species of timber ^{Conflicting licences} or lands included in an earlier licence, the later licence is void in so far as it conflicts with the earlier licence, and the person holding the later licence has no claim against the Minister for indemnity or compensation by reason thereof. R.S.O. 1970, c. 102, s. 8.

10. A licence does not confer on the licensee any right to ^{Rights of licensee in area limited} the soil or freehold of the licensed area or to the exclusive possession thereof except as is in the opinion of the Minister necessary for the cutting and removal of the timber thereon and the management of the licensed area and operations incidental thereto. R.S.O. 1970, c. 102, s. 9.

11.—(1) Subject to the payment of Crown charges, the ^{Effect of licence} property in all timber of the species set out in a licence and cut during the term of the licence vests in the licensee at the time the timber is cut.

(2) Crown charges in respect of all timber of the species ^{Crown charges to be paid} set out in the licence cut on a licensed area during the term of the licence shall be paid by the licensee whether the timber is cut by the licensee or by any other person with or without his consent. R.S.O. 1970, c. 102, s. 10.

12.—(1) Every licence entitles the licensee to seize all ^{Rights of licensee in his timber} timber of the species set out in the licence cut on the licensed area during the term of the licence wherever the timber is found in the possession of a person not entitled thereto and to maintain an action against a person wrongfully cutting or damaging or having wrongful possession of the timber.

(2) All proceedings pending at the expiration of a licence ^{Continuation of proceedings} may be continued to final termination as if the licence had not expired. R.S.O. 1970, c. 102, s. 11.

Express right
necessary to
cut on certain
lands

13.—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence.

No right to
cut on located
or sold lands
R.S.O. 1980,
c. 413

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under the *Public Lands Act*. 1979, c. 92, s. 6.

Commence-
ment of
cutting
operations

14.—(1) No licensee shall commence cutting operations in any year until the Minister has approved in writing the area in which the cutting operations are to be carried on in that year.

Default of
charges

(2) Where a licensee does not pay the Crown charges within thirty days of the date the account therefor was sent to him, the Minister may withhold the approval mentioned in subsection (1) until such Crown charges are paid. R.S.O. 1970, c. 102, s. 13.

Timber to be
manufac-
tured in
Canada

15.—(1) Every licence is subject to the condition that all timber cut thereunder, except timber that is used in Canada in an unmanufactured state for fuel, building or other purposes, shall, except as provided in subsection (3), be manufactured in Canada into ties, poles, pit props, lumber, veneer or such like products or into pulp.

Lumber
chips
deemed
to be manu-
factured

(2) For the purpose of subsection (1), chips produced as a by-product of the manufacture of lumber shall be deemed to be manufactured into lumber.

Power to
suspend
operation
of subs. (1)

(3) The Lieutenant Governor in Council, after giving thirty days notice of his intention so to do by publication in *The Ontario Gazette*, may suspend the operation of subsection (1) as to any kind or class of timber that he designates and as to any area that he defines and for such period and upon such other terms and conditions as he considers proper. R.S.O. 1970, c. 102, s. 14.

Certificate
and
affidavit or
declaration

16. Every person who applies to the Ministry for a customs clearance document relating to the export of timber shall make a statement by affidavit or by statutory declaration respecting the timber in such form as the Minister prescribes. R.S.O. 1970, c. 102, s. 15; 1972, c. 1, s. 1.

Supplying
mills with
timber

17.—(1) The Minister, by written notice containing such provisions as he considers proper, may direct a licensee to

offer to the owner or operator of the mill specified therein the first opportunity to purchase the kind or class of timber produced from time to time by the licensee.

(2) The Minister may by written notice amend, vary or revoke any notice issued pursuant to subsection (1). 1971, c. 23, s. 2. Amendment
of notice

18.—(1) A licence shall not be assigned, pledged or charged without the consent in writing of the Minister and permission to cut timber on a licensed area shall not be granted by a licensee without the consent in writing of the Minister, and he is not under any circumstances bound to give such consent and he may impose such terms and conditions as he considers proper. Assignment,
etc., of
licences

(2) An assignment, pledge or charge of a licence or permission to cut on a licensed area does not have any force or validity unless the Minister has consented thereto in writing. Consent of
Minister

(3) Where an application is made to the Minister for his consent under subsection (1) and he is of opinion that the licensee's cutting operations on and improvements of the licensed area have not been adequate in all the circumstances, he may cancel the licence. R.S.O. 1970, c. 102, s. 16. Cancellation
of licence

19. Every licensee shall keep in connection with every cutting operation such records relating to the quantity of timber cut as are required by the Minister and such records shall be open at all times to the inspection of any officer or agent and shall at the end of each cutting season be delivered to an officer or agent. R.S.O. 1970, c. 102, s. 17. Records

20. Notwithstanding any licence, the Minister may, Additional
powers

(a) subject to this Act, dispose of any Crown timber not expressly mentioned in the licence; and

(b) after thirty days written notice to the licensee specifying the action proposed to be taken and giving him an opportunity to be heard, sell, lease, grant or otherwise dispose of any public lands included in a licensed area for any purpose for which public lands may be disposed of under the *Public Lands Act*, and upon such sale, lease or grant being made all rights of the licensee in respect of the timber on such lands cease. R.S.O. 1970, c. 102, s. 18; 1979, c. 92, s. 7. R.S.O. 1980,
c. 413

LIEN FOR CROWN CHARGES AND SEIZURE OF TIMBER

Lien for
Crown
charges

21. All Crown charges are a lien and charge upon timber cut by a licensee under the authority of any licence and upon any product manufactured from such timber in preference and priority to any and all other fees, charges, liens or claims whatsoever. R.S.O. 1970, c. 102, s. 19.

Seizure of
timber and
products

22.—(1) Any officer or agent may seize and detain any timber and any product manufactured from such timber,

- (a) where the person for the time being in possession or control of the timber or product refuses or fails to inform the officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber or product; or
- (b) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured has not been measured or counted by a scaler as required by this Act; or
- (c) where the officer or agent believes on reasonable grounds that Crown charges are owing by the licensee in respect of the timber or the timber from which the product was manufactured or any other timber; or
- (d) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured was not cut under the authority of a licence.

Removal
of seized
timber and
products

(2) Any timber or product that is seized under subsection (1) may be removed to such place as the officer or agent considers proper for the protection of the timber or product and, if it is seized when in possession of a carrier, it shall be removed by the carrier on behalf of the Minister to such place as the officer or agent may direct, but,

- (a) the Minister is liable for transportation and all other proper charges incurred in consequence of the directions given by the officer or agent; and
- (b) such seizure does not prejudice or affect any lien to which the carrier is entitled in respect of the timber or product up to the time of such seizure.

(3) Where timber liable to seizure under this section has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed at a mill or elsewhere as to render it impractical or difficult to distinguish such timber from other timber with which it is mixed, the whole of the timber so mixed may be seized and detained. R.S.O. 1970, c. 102, s. 20.

Timber
mixed with
other timber

23. Where timber or any product manufactured therefrom has been seized and no claim to recover it is made within thirty days from the date of the seizure, the timber or product shall be deemed to be forfeited to and becomes the property of the Crown and may be dealt with in such manner as the Minister may direct. R.S.O. 1970, c. 102, s. 21.

Forfeiture
of seized
timber and
products

24. Where timber or any product manufactured therefrom is subject to a lien and charge under section 21 and is under seizure or attachment by a sheriff or a bailiff of a court, or is claimed by or is in the possession of any assignee for the benefit of creditors, or any liquidator, or any trustee in bankruptcy, or where such timber or product has been converted into cash that has not been distributed, the Minister may give to the sheriff, bailiff, assignee, liquidator or trustee in possession of such timber or product, or cash, notice of the amount due or owing under such lien and charge, and thereupon the sheriff, bailiff, assignee, liquidator or trustee shall pay the amount so due or owing to the Treasurer of Ontario in preference to and in priority over all other fees, charges, liens or claims whatsoever. R.S.O. 1970, c. 102, s. 22.

Notice
of lien

PROCEEDINGS FOLLOWING SEIZURE OF TIMBER

25.—(1) A person claiming to be the owner of timber or a product manufactured therefrom that has been seized under this Act, upon at least four days notice to the Minister, may apply to a judge of the county or district court of the county or district in which the timber or product is held under seizure for an order for its release from seizure and its delivery to him.

Order for
release from
seizure

(2) Upon receipt of a bond of the claimant, with two good and sufficient sureties, in an amount not less than the market value of the timber or product and the expenses of the seizure, to be forfeited to the Crown if the claimant is declared by the judge not to be the owner of the timber or product, the judge may order the timber or product to be released from seizure and to be delivered to the claimant.

Order for
release and
delivery to
claimant

Order as to
ownership

(3) Upon the application of the Minister or the claimant, and upon at least seven days notice, the judge shall determine the ownership of the timber or product whether or not it has been released and delivered to the claimant under subsection (2) and shall make an order,

(a) declaring the claimant to be the owner,

(i) free of any claim for Crown charges, or

(ii) subject to payment of such Crown charges, and expenses as he finds to be owing; or

(b) declaring the claimant not to be the owner and the bond, if any, forfeited to the Crown.

Costs of
proceedings

(4) The judge shall make such order as he considers proper as to the costs of proceedings under this section and the expenses of seizure.

Disposal

(5) If the claimant is declared not to be the owner of the timber or product, it shall be disposed of in such manner as the Minister determines. R.S.O. 1970, c. 102, s. 23.

FOREST MANAGEMENT

Management
plans

26.—(1) Every licensee shall, when required by the Minister, furnish within such period as is fixed by the Minister a management plan,

(a) consisting of a report, inventory, maps and an operating plan prepared in conformity with the manual of management plan requirements authorized by the Minister; and

(b) prepared under the supervision of a professional forester and certified by him in the following form:

I hereby certify that this plan has been prepared under my personal supervision and that all field work and calculations have been carried out to the best of my skill and judgment in accordance with the manual of management plan requirements.

When
operating
plan to be
furnished

(2) Every licensee who is not required to submit a management plan under subsection (1) shall, when required by the Minister and within such period as is fixed by the Minister, furnish an operating plan showing the proposed operations and a statement of the purpose for which the timber is to be used.

(3) The Minister may approve a management plan or ^{Approval of plans} operating plan as submitted to him or may approve it with such alterations therein as he considers advisable.

(4) A licensee shall conduct all operations on his licensed ^{Management of the area according to plan} area in accordance with the approved management plan or operating plan, as the case may be.

(5) Where a licensee fails to furnish a management plan ^{Plans not submitted on time} or an operating plan, as the case may be, within the period fixed by the Minister, the Minister may cause the plan to be prepared, and the cost thereof shall be a claim of the Crown in connection with the licensed area. R.S.O. 1970, c. 102, s. 24.

27.—(1) Every licensee shall furnish to the Minister, ^{Information to be furnished annually}

(a) at least thirty days before cutting operations commence in each year, an annual plan for the cutting operations to be conducted by him during the twelve-month period commencing on the 1st day of April in that year; and

(b) not later than the 31st day of October in each year a map showing the boundaries and the acreages of the areas cut over and the parts thereof that were not cut during the twelve-month period ending on the 31st day of March of that year together with a statement of the acreages of the areas cut over, the parts thereof that were not cut and the amount, species and size of timber cut from each cutting area during such period.

(2) The Minister may approve an annual plan or may ^{Alteration of plan} approve it with such alterations as he considers advisable, and, where the alterations involve the alteration of an approved management plan or operating plan, the management plan or the operating plan, as the case may be, shall be deemed to be altered accordingly.

(3) Cutting operations in each year shall be conducted in ^{Cutting operations} accordance with the approved annual plan. R.S.O. 1970, c. 102, s. 25 (1-3).

(4) The Minister may enter into an agreement with a ^{Minister may enter into agreements} licensee for the promotion and maintenance of the productivity of the licensed area by establishing, regenerating and tending forests and employing silvicultural cutting systems to regenerate forests. 1978, c. 51, s. 2.

Cancellation
or variation of
licence, etc.

28.—(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

- (a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and
- (b) with the consent of the licensee, may cancel or vary any term or condition of a licence. 1979, c. 92, s. 8.

Idem

(2) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Minister may,

- (a) limit the cutting of the timber included in any licence in respect of the size, age, quality, species, types and distribution thereof as he considers consistent with the best forestry practices;
- (b) determine the species and quantities of Crown timber that may be cut by any licensee for the manufacture of lumber, pulp, paper or other products; and
- (c) for the purpose of forest management, watershed protection, fire protection, or the preservation of beauty of landscape, game preserves or game shelters, direct the marking of trees to be left standing or to be cut in any area designated by him, and direct the licensee to pay the cost of such marking.

Idem

(3) Any action by the Lieutenant Governor in Council under subsection (1) or any action by the Minister under subsection (2) in respect of matters other than fire protection does not affect operations being carried out or to be carried out pursuant to an approved annual plan. R.S.O. 1970, c. 102, s. 26 (2, 3).

Wasteful
practices

29. No person shall commit wasteful practices in forest operations. R.S.O. 1970, c. 102, s. 27.

Information
to be
furnished
by licensee

30. Every licensee shall, when required by the Minister and within the time specified, furnish to him in writing and under oath such information relating to the utilization, transformation or disposal of the timber cut on the licensed area and any products manufactured therefrom as he requires. R.S.O. 1970, c. 102, s. 28.

31. Where a licensee contravenes any provision of sections 26 to 30 or any order of the Minister made thereunder, the Minister may suspend the operation of the licence in whole or in part for a period not exceeding six months. R.S.O. 1970, c. 102, s. 29. Non-compliance with ss. 26-30

32. Where a licensee contravenes any provision of sections 26 to 30 or any order of the Minister made thereunder, the Lieutenant Governor in Council may, Idem

- (a) suspend the operation of the licence in whole or in part for such period as he determines; or
- (b) cancel the licence in whole or in part. R.S.O. 1970, c. 102, s. 30.

33. The Minister may authorize a manual of management plan requirements prescribing the method of preparing management plans, operating plans, annual plans, and inventories, and the form thereof. R.S.O. 1970, c. 102, s. 31. Manual of management plan requirements authorized

SCALERS

34.—(1) The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is, Boards of examiners, appointment and duties

- (a) to examine and report upon the ability and knowledge of persons desiring to be licensed to measure all classes of timber; and
- (b) to perform such other duties as are assigned to them by the Lieutenant Governor in Council. R.S.O. 1970, c. 102, s. 32 (1); 1979, c. 92, s. 9.

(2) The Minister shall determine the standard and method of examination. R.S.O. 1970, c. 102, s. 32 (2). Standard and method of examination

35.—(1) Every examiner, before entering upon his duties, shall take and subscribe an oath in the following form: Oath of examiners

I,, will act as examiner of scalers to the best of my ability and knowledge, and will conduct the examination without fear, favour or affection and recommend for licences only those persons who have satisfactorily proved their fitness to discharge the duties of measuring timber. So help me God.

(2) The oath shall be transmitted to the Minister. R.S.O. 1970, c. 102, s. 33. Transmission of oaths

36. The members of boards of examiners shall be paid such remuneration and travelling expenses as are determined by the Lieutenant Governor in Council. R.S.O. 1970, c. 102, s. 34. Remuneration of examiners

**Examina-
tions**

37.—(1) Every board of examiners shall sit at such places and on such days as are determined by the Minister, and shall examine all candidates who present themselves, and at the close of the examination, or as soon after as may be, shall transmit to the Minister the names of such of the candidates as they believe are trustworthy and of good character and who on examination have satisfactorily proved their fitness to discharge the duties of measuring all classes of timber or of measuring pulpwood and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as scalers.

**Examina-
tion fee**

(2) The Minister may determine the amount of the examination fee to be paid by candidates. R.S.O. 1970, c. 102, s. 35.

**Scalers'
licences**

38.—(1) The Minister may issue a scaler's licence to any person who has been recommended by a board of examiners and who has taken the oath prescribed by section 40.

Term

(2) Every scaler's licence expires with the 31st day of March of the third year after the 31st day of March that preceded the date of issue.

Renewal

(3) A scaler's licence may, upon application to the Minister, be renewed from time to time either before or after the expiration thereof or of the last renewal, and every renewal expires with the 31st day of March of the third year after the 31st day of March that preceded the date of issue, but, where a licence has not been renewed within three years after its expiration or after the expiration of the last renewal, it shall not be further renewed. R.S.O. 1970, c. 102, s. 36.

**Special
permits**

39. Where a licensed scaler is not available, the Minister may issue a special permit to anyone whose trustworthiness and skill have been established by the affidavits of two responsible persons. R.S.O. 1970, c. 102, s. 37.

**Scaler's
oath**

40.—(1) Before a scaler's licence or special permit is issued, the applicant shall take an oath in the following form:

I,, while acting as a licensed scaler (*or* as holder of a special permit), without fear, favour or affection, and to the best of my judgment and skill, will measure correctly in accordance with the authorized manual of scaling instructions all Crown timber that I am employed to measure, and make true return of the same to the Ministry of Natural Resources or its officer or agent. So help me God.

R.S.O. 1970, c. 102, s. 38 (1); 1972, c. 4, s. 12.

(2) The oath shall be transmitted to the Minister. R.S.O. 1970, c. 102, s. 38 (2). Transmission of oaths

41. The Minister may authorize a manual of scaling instructions prescribing the method of measuring Crown timber. R.S.O. 1970, c. 102, s. 39. Manual of scaling instructions authorized

42.—(1) It is the duty of every licensed scaler or holder of a special permit to measure in accordance with the authorized manual of scaling instructions all Crown timber that he is employed to measure, making only such deductions as are authorized by the manual, and to enter in a book of record, for the purpose of a return to the Ministry, the contents of the timber or pulpwood measured by him and the number of logs rejected as culls. R.S.O. 1970, c. 102, s. 40 (1); 1972, c. 1, s. 1. Duties of scalers

(2) It is the duty of every licensed scaler or holder of a special permit to stamp upon every cull the word "cull". R.S.O. 1970, c. 102, s. 40 (2). Idem

43. All Crown timber shall be measured by a licensed scaler or a holder of a special permit at the place of cutting or at a concentration point adjacent to the place of cutting, and no Crown timber shall be manufactured or removed from the place of cutting or from the concentration point before being so measured, without the written authority of the Minister. R.S.O. 1970, c. 102, s. 41. Where timber to be measured

44.—(1) Pulpwood cut in lengths of more than eight feet shall be measured in cubic feet of solid wood and not in stacked cords. Measurement of pulpwood

(2) Pulpwood cut in lengths of eight feet or less may be measured in cubic feet of solid wood or in stacked cords, as the Minister directs. Idem

(3) Where a licensee is required or permitted to measure pulpwood in cubic feet of solid wood, he is entitled to convert 85 cubic feet of solid wood into 128 cubic feet of stacked wood. R.S.O. 1970, c. 102, s. 42. Idem

45. Every licensed scaler and every holder of a special permit shall submit his books and records of measurements of Crown timber for the inspection of any officer or agent when called upon so to do, and shall furnish all information and statements or copies of statements that the Minister or any officer or agent requires. R.S.O. 1970, c. 102, s. 43. Inspection of scalers' books

46. The Minister may suspend or cancel the licence or special permit of any scaler who undermeasures or mis- Suspension and cancellation of scalers' licences and permits

measures or improperly culls any Crown timber, or makes a false return, or fails to make a return when required. R.S.O. 1970, c. 102, s. 44.

LICENSING OF MILLS

Licence
required

47.—(1) No person shall construct, reconstruct or operate a mill, or increase the productive capacity of a mill, or convert an existing mill into a mill of any other type, without a licence from the Minister.

Condition
precedent
to grant
of licence

(2) A licence under subsection (1) shall not be granted unless the applicant has, in the opinion of the Minister, a sufficient supply of logs or wood-bolts.

Effect of
licence

(3) The granting of a licence under subsection (1) does not imply any obligation on the part of the Minister to make Crown timber available for the mill. R.S.O. 1970, c. 102, s. 45.

PENALTIES

Penalties

48.—(1) Every person who,

- (a) commences cutting operations without the approval of the Minister under section 14, or carries on cutting operations beyond the limits of the area approved by the Minister under section 14, is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber so cut and not more than five times the amount of such charges;
- (b) contravenes subsection 15 (1) or any order or direction made under section 28 or any regulation made under clause 53 (*h*) is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;
- (c) except under a licence, cuts or employs or induces or assists any other person to cut Crown timber or removes or employs or induces or assists any other person to remove Crown timber is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;

- (d) contravenes section 43 is liable to a penalty of an amount not less than twice the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;
- (e) contravenes section 19 is liable to a penalty of not less than \$50 and not more than \$5,000;
- (f) when in possession or control of any timber or any product manufactured therefrom, upon request refuses or fails to inform any officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber, is liable to a penalty of not less than \$10 and not more than \$500;
- (g) interferes with any officer or agent who seizes timber under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (h) removes or attempts to remove or interferes or attempts to interfere with any timber or any product manufactured therefrom after it has been seized under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (i) makes or avails himself of any false statement or oath with respect to any matter under this Act or the regulations, is liable to a penalty of not less than \$100 and not more than \$500;
- (j) contravenes section 47 or any regulation made under clause 53 (*m*) or (*o*), is liable to a penalty of not less than \$25 and not more than \$1,000 for the first contravention and to a penalty of not less than \$50 and not more than \$5,000 for each subsequent contravention;
- (k) fails to comply with a written notice issued under section 17 is liable to a penalty of not less than \$25 and not more than \$1,000 for the first failure to comply and not less than \$50 and not more than \$5,000 for each subsequent failure to comply. R.S.O. 1970, c. 102, s. 46 (1); 1971, c. 23, s. 3; 1978, c. 51, s. 3 (1).

(2) Where in the opinion of the Minister a person is liable to a penalty under subsection (1) or the regulations, he may give notice to the person by registered mail,

Demand for
penalty

- (a) setting out the facts and circumstances that in his opinion render the person liable to a penalty;
- (b) requiring the person to pay such penalty as he considers proper in the circumstances; and
- (c) specifying the time within which the penalty shall be paid. R.S.O. 1970, c. 102, s. 46 (2); 1978, c. 51, s. 3 (2).

Right of
action

(3) If a person fails to pay a penalty in accordance with a notice under subsection (2), the Minister may bring an action for the recovery of the penalty in a court of competent jurisdiction, and in such action it is the duty of the court,

- (a) to determine whether such person is liable to a penalty under subsection (1) or the regulations;
- (b) if it is determined that the person is liable to a penalty, to confirm or vary the amount thereof claimed by the Minister;
- (c) to give such judgment as it considers proper; and
- (d) to make such order as to costs or otherwise as it considers proper. R.S.O. 1970, c. 102, s. 46 (3); 1978, c. 51, s. 3 (3).

GENERAL

Acts of
Minister
deemed
adminis-
trative

49. Every thing done by the Minister under the authority of this Act shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1970, c. 102, s. 48.

Regula-
tions re
Crown
charges

50. Notwithstanding anything in this Act or any general or special Act or in any order, regulation, agreement or licence, any regulation made under clause 53 (c) or (d) may be made to come into force on the 1st day of April immediately preceding its filing or on any day subsequent to that 1st day of April. 1978, c. 51, s. 4, *part*.

Determina-
tion of
Crown dues

51. Unless otherwise provided in the regulations, the Crown dues to be paid in respect of timber by a licensee or class of licensee are those Crown dues fixed or determined under the regulations in force at the time the timber is

measured, notwithstanding that the timber is cut before the regulations come into force. 1978, c. 51, s. 4, *part.*

52.—(1) Every licence granted under a predecessor of this Act and subsisting when this Act comes into force shall, subject to subsection (2), continue in force in accordance with the terms of the licence. ^{Existing licences and permits}

(2) This Act and the regulations apply to every licence heretofore or hereafter granted and, where there is any conflict between this Act or the regulations and any licence, this Act and the regulations govern. R.S.O. 1970, c. 102, s. 50. ^{Application of Act and regulations}

REGULATIONS

53. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) prescribing the terms and conditions that shall apply to licences, other than those granted under subsection 2 (7) or section 5;
- (b) prescribing terms and conditions, in addition to those prescribed under clause (a), that shall apply to licences to cut Crown timber in a provincial park;
- (c) fixing the amount of area charge and other charges to be paid in respect of licensed areas;
- (d) fixing or determining the Crown dues to be paid by a licensee or class of licensee in respect of any kind or class of timber, other than killed or damaged timber, cut under licence and, without limiting the generality of the foregoing, such regulations may provide for,
 - (i) the fixing or determining of Crown dues by a formula employing any index number existing before or coming into existence after the regulations come into force, of any price index, or any average of any such index numbers,
 - (ii) a method of categorizing any licensee or class of licensee in respect of the application of any such formula,

- (iii) any forfeiture or suspension considered necessary to administer effectively any such method,
- (iv) the filing of any certificate, affidavit and other material considered necessary for the purposes of any such method,
- (v) determining when a licensee shall be deemed to have failed or neglected to file any such certificate, affidavit or other material, and
- (vi) informing licensees of Crown dues determined by any formula ;
- (e) fixing the times at which Crown charges are payable and the rate and kind of interest to be charged on overdue accounts and prescribing the method of calculating or compounding any such interest ;
- (f) fixing the fees to be paid on the transfer of a licence ;
- (g) prescribing the manner in which a seizure of timber may be effected under section 22 ;
- (h) fixing the minimum size of any species of trees that may be cut under licence ;
- (i) defining wasteful practices in forest operations and prescribing the penalties that may be imposed for contravention of any such regulation ;
- (j) classifying mills and providing for the issue of licences therefor ;
- (k) prescribing the form of mill licences and the fees to be paid therefor ;
- (l) prescribing the term of mill licences and providing for the transfer, renewal, suspension and cancellation thereof ;
- (m) imposing conditions as to the location of mills, the mechanical efficiency thereof and operating methods of mill licensees, including the disposal of waste or refuse ;
- (n) providing for the periodical inspection of mills ;
- (o) prescribing the returns that mill licensees shall make to the Minister as to their mills and operations,

including the sources, species, quantities and disposition of materials processed;

- (p) prescribing the form of scalers' licences, special permits and renewals and the fees payable in respect thereof;
- (q) prescribing penalties for the contravention of any provision of this Act or the regulations where no penalty has been fixed by this Act;
- (r) governing the cutting of timber before the issue of a patent by a purchaser or locatee of lands for agricultural purposes under the *Public Lands Act* ^{R.S.O. 1980, c. 413} and prescribing the extent to which and the conditions under which such cutting may be carried on;
- (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 102, s. 51; 1972, c. 26, s. 1; 1978, c. 51, s. 5.

54. Any regulation may be limited territorially or as to time or otherwise. 1971, c. 23, s. 4. ^{Regulations may be limited}

CHAPTER 110

Crown Witnesses Act

1. In this Act,

Interpre-
tation

(a) “trial” means any proceeding in a criminal matter in a court or before a justice of the peace or a grand jury, but does not include a proceeding in a matter arising out of a contravention of a by-law of a municipality or local board thereof;

(b) “witness” means a person who attends at the instance of the Crown to give evidence at a trial. 1971, c. 5, s. 1, *part*.

2.—(1) Witnesses attending trials at the instance of the Crown shall be paid such fees and allowances as are prescribed under the *Administration of Justice Act*.

Fees for
Crown
witnesses

R.S.O. 1980,
c. 6

(2) No witness fee or allowance shall be paid under subsection (1) to a member of a police force who attends a trial held in the county or district within which the police force is responsible for policing an area. 1971, c. 5, s. 1, *part*.

Exception

(3) The Crown attorney, with the approval of the Deputy Attorney General, may order the payment of such sum in addition to the fees and allowances referred to in subsection (1) as he considers reasonable and sufficient to compensate the witness for doing any work in preparation for a trial or preparing any document or article for use at a trial. 1971, c. 5, s. 1, *part*; 1973, c. 4, s. 1 (1).

Compensa-
tion for
preparatory
work

(4) Where the Deputy Attorney General is of the opinion that the fees and allowances payable to a witness under subsection (1) are insufficient having regard to special circumstances, he may authorize the payment of such higher fee or allowance as he considers appropriate. 1971, c. 5, s. 1, *part*; 1973, c. 4, s. 1 (2).

Increase of
fees in
special
circum-
stances

3. Where a bill of indictment has not been preferred or where a trial has not been proceeded with, section 2 applies, if in the opinion of the Crown attorney a person attended the court in obedience to a recognizance or subpoena or at the instance of the Crown. R.S.O. 1970, c. 103, s. 4; 1971, c. 5, s. 2.

Where no
indictment
preferred or
trial had

Moneys

4. The fees and allowances authorized by this Act shall be paid out of the moneys appropriated by the Legislature for the administration of justice. R.S.O. 1970, c. 103, s. 5.

Witness fees, etc., payable on prosecution of claims etc., by Her Majesty

5. In the case of an information, action or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of Her Majesty against any person for the use of Ontario, or for the recovery of the possession of any land, deeds or personal property to which Her Majesty claims to be entitled for the use of Ontario, the witnesses are entitled to be paid the like witness fees and allowances as are payable in actions between subject and subject. R.S.O. 1970, c. 103, s. 6.

Where evidence taken by commission

6. Where a commission has issued to take the evidence of a witness, the fees and expenses incurred in and by the issue of the commission and taking of the evidence shall be paid in the same manner as witness fees. R.S.O. 1970, c. 103, s. 7.

Fees, etc., not payable in advance

7. A witness is not entitled to require payment of any witness fee or allowance under this Act before the determination by adjournment or otherwise of the trial at which he attends as a witness. R.S.O. 1970, c. 103, s. 8.

CHAPTER 111

Day Nurseries Act

1. In this Act,

Interpre-
tation

(a) "approved corporation" means a corporation that,

(i) has been approved under section 6, and

(ii) that is specified in the regulations or that is a member of a class prescribed in the regulations;

(b) "band" and "council of the band" have the same meaning as in the *Indian Act* (Canada);R.S.C. 1970,
c. I-6(c) "Board" means the Children's Services Review Board under the *Children's Residential Services Act*;R.S.O. 1980,
c. 71

(d) "day nursery" means a premises that receives more than five children who are not of common parentage, primarily for the purpose of providing temporary care, or guidance, or both temporary care and guidance, for a continuous period not exceeding twenty-four hours, where the children are,

(i) under eighteen years of age in the case of a day nursery for children with a developmental handicap, and

(ii) under ten years of age in all other cases,

but does not include,

(iii) part of a public school, separate school, private school or a school for trainable retarded children under the *Education Act*,
R.S.O. 1980,
c. 129

(iv) a place that is used for a program of recreation and that is supervised by a municipal recrea-

R.S.O. 1980,
c. 276

tion director who holds a certificate issued pursuant to section 10 of the *Ministry of Culture and Recreation Act*, or

R.S.O. 1980,
c. 69

(v) a children's mental health centre under the *Children's Mental Health Services Act*;

- (e) "developmental handicap" means a condition of mental impairment present or occurring during a person's formative years, that is associated with limitations in adaptive behaviour;
- (f) "Director" means an employee of the Ministry appointed by the Minister as a director for all or any of the purposes of this Act;
- (g) "in-home services" means services provided for a child,
 - (i) in the child's own home, or
 - (ii) in a place other than the child's own home where the child is receiving residential care;
- (h) "licence" means a licence issued under this Act;
- (i) "Minister" means the Minister of Community and Social Services;
- (j) "Ministry" means the Ministry of Community and Social Services;
- (k) "municipality" means a city, town, village, township or county and includes a metropolitan municipality, but does not include a local municipality in a metropolitan municipality;
- (l) "operator" means a person who has control or management of a day nursery or a private-home day care agency and "operate" has a corresponding meaning;
- (m) "private-home day care" means the temporary care for reward or compensation of five children or less who are under ten years of age where such care is provided in a private residence, other than the home of a parent or guardian of any such child, for a continuous period not exceeding twenty-four hours;
- (n) "private-home day care agency" means a person who provides private-home day care at more than one location;

(o) "regulations" means the regulations made under this Act;

(p) "residential care" means boarding or lodging, or both, and may include specialized, sheltered or group care in conjunction with the boarding or lodging, or both. 1978, c. 72, s. 1.

2.—(1) The Minister may appoint one or more persons to act as a Director. Appointment of Director

(2) A Director shall perform the duties imposed and may exercise the powers conferred upon a Director by this Act or the regulations or by any other Act or regulation thereunder. Duties of Director

(3) Where a Director is absent or there is a vacancy in the office of a Director, the powers and duties of the Director shall be exercised and performed by such employee of the Ministry as the Minister may designate. 1978, c. 72, s. 2. Acting Director

3.—(1) The council of a municipality may, subject to this Act and the regulations, by by-law provide for the establishment of day nurseries. Establishment of day nurseries by municipalities

(2) The council of a municipality may pass by-laws granting aid to day nurseries. By-laws re grants

(3) The council of a municipality may, subject to this Act and the regulations, enter into an agreement with the operator of a day nursery for the furnishing of day nursery services for such children as is agreed upon, and the municipality may make expenditures as are necessary for the purpose. Agreements to provide day nurseries

(4) The Minister may, Establishment, etc., of day nurseries by Minister

(a) with the approval of the Lieutenant Governor in Council, establish day nurseries in areas without municipal organization;

(b) enter into an agreement with the operator of a day nursery for the furnishing of day nursery services for such children residing in areas without municipal organization as is agreed upon; and

(c) direct payment of expenditures as are necessary for the purposes of clauses (a) and (b). 1978, c. 72, s. 3.

4.—(1) The council of a municipality may pass by-laws granting aid to any person providing private-home day care. By-laws re grant

Agreement
to furnish
private-
home day
care

(2) The council of a municipality may enter into an agreement with any person for the furnishing of private-home day care, and the municipality may make expenditures as are necessary for the purpose.

Agreement
with
Minister

(3) The Minister may enter into an agreement with any person for furnishing private-home day care in areas without municipal organization and may direct payment of expenditures as are necessary for the purpose. 1978, c. 72, s. 4.

Agreement
to purchase
in-home
services

5.—(1) The council of a municipality may enter into an agreement to purchase in-home services for a child from any person and may direct payment of expenditures as are necessary for the purpose.

Idem

(2) The Minister may enter into an agreement to purchase in-home services for a child from any person and may direct payment of expenditures as are necessary for the purpose.

Agreement
to purchase
services

(3) The Minister may enter into an agreement to purchase services for a child enrolled in a day nursery or in receipt of private-home day care and may direct payment of expenditures as are necessary for the purpose. 1978, c. 72, s. 5.

Approval of
corpora-
tions

6.—(1) Where the Minister is satisfied that any corporation is, with financial assistance under this Act and the regulations, financially capable of establishing, maintaining and operating a day nursery and that its affairs are carried on under competent management in good faith, the Minister may approve the corporation for the payment of grants under this Act and the regulations.

Funding of
corporations

(2) Where the Minister intends to approve a corporation under subsection (1) the Minister may enter into an agreement with the corporation for the establishment of a day nursery upon such terms and conditions as may be agreed and may direct payment of expenditures as are necessary for the purpose. 1978, c. 72, s. 6.

Suspension
and
revocation
of approvals

7.—(1) Subject to this section, any approval given under section 6 may be suspended or revoked by the Minister where,

- (a) any director, officer or employee of the approved corporation has contravened or knowingly permitted any person under the control and direction of the director, officer or employee, as the case may be, to contravene any provision of this Act or the regulations; or

- (b) the approval would be refused if application were being made for it in the first instance.

(2) Subject to subsection (10), where the Minister proposes to suspend or revoke an approval of a corporation given under this Act, the Minister shall, except where the approval is suspended or revoked with the consent of the approved corporation, serve notice of the Minister's proposal to suspend or revoke the approval, together with written reasons therefor, on the approved corporation.

Notice of
proposal
to suspend
or revoke

(3) A notice under subsection (2) shall inform the approved corporation that it is entitled to a hearing under this section if the corporation mails or delivers, within fifteen days after the notice under subsection (2) is served on it, notice in writing, to the Minister requiring a hearing and the corporation may so require a hearing.

Notice
requiring
hearing

(4) Where the approved corporation does not require a hearing under this section in accordance with subsection (5), the Minister may carry out the proposal stated in the Minister's notice under subsection (2) without a hearing.

Powers of
Minister
where no
hearing

(5) Where the approved corporation requires a hearing under subsection (3), the Minister shall cause a hearing to be held to determine whether the approval should be suspended or revoked.

Hearing

(6) Where the Minister causes a hearing to be held, the hearing shall be held by a person or persons appointed by the Minister other than a person or persons in the employment of the Ministry.

Idem

(7) Sections 4 to 16 and 21 to 24 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section.

Application
of R.S.O.
1980, c. 484

(8) The person or persons holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out,

Report to
Minister

- (a) the findings of fact and any information or knowledge used by the person or persons in making any recommendations, any conclusions of law arrived at relevant to the recommendations; and

- (b) the recommendations of the person or persons as to the suspension or revocation of the approval,

and shall send a copy of the report to the persons affected by the report.

Decision of
Minister

(9) After considering a report made under this section, the Minister may suspend or revoke the approval to which the report relates and shall give notice of the Minister's decision to the persons affected, specifying the reasons therefor.

Provisional
suspension
of approval

(10) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections (2) to (9) apply. 1978, c. 72, s. 7.

Payments

8.—(1) There shall be paid to every municipality an amount determined in accordance with the regulations towards the cost incurred,

(a) for the operation and maintenance of a day nursery established by the municipality; and

(b) under an agreement entered into pursuant to,

(i) subsection 3 (3), or

(ii) subsection 4 (2), or subsection 5 (1).

Payments
to bands

(2) There shall be paid to every band an amount determined in accordance with the regulations towards the cost incurred,

(a) for the operation and maintenance of a day nursery established by the council of the band; and

(b) under agreements entered into by the council of the band,

(i) with the operator of a day nursery for the furnishing of services for such children as is agreed upon,

(ii) with any person for the furnishing of private-home day care, or

(iii) with any person to purchase in-home services for a child.

Payment
to approved
corpora-
tions

(3) There shall be paid to every approved corporation an amount determined in accordance with the regulations for the

operation and maintenance of a day nursery maintained and operated by the corporation.

(4) An amount payable to a municipality, a band or an approved corporation under this section, Time and manner of payment

(a) shall be paid at the time or times and in the manner as is prescribed by the regulations; and

(b) may in special circumstances be paid in respect of persons,

(i) who are in receipt of private-home day care and have a developmental handicap, in addition to those persons described in clause 1 (m), and

(ii) who are under twelve years of age and are enrolled in a day nursery or in receipt of private-home day care and who do not have a developmental handicap, in addition to those persons described in subclause 1 (d) (ii) and clause 1 (m);

(c) shall, in respect of a child who is,

(i) enrolled in a day nursery and who attains the age of eighteen years where the child has a developmental handicap or attains the age of ten years where the child does not have a developmental handicap,

(ii) in receipt of private-home day care and attains the age of ten years,

(iii) a person referred to in subclause (b) (i) where there are special circumstances, and who attains the age of eighteen years, or

(iv) a person referred to in subclause (b) (ii) where there are special circumstances, and who attains the age of twelve years,

be paid in respect of such child,

(v) where the child attains such age after the commencement of the school year and before the 1st day of January in the school year, until the 1st day of January, or

(vi) where the child attains such age in a school year after the 1st day of January in the

school year, until the completion of the school year. 1978, c. 72, s. 8.

Capital
payments

9.—(1) Where the Minister has approved the erection of a new building, an addition to an existing building, the purchase or other acquisition of an existing building, the structural alteration or the renovation or the furnishing and equipping of a building by a municipality, band or approved corporation for use in whole or in part as a day nursery, the Minister may direct payment to the municipality, band or approved corporation, as the case may be, out of moneys appropriated therefor by the Legislature of an amount determined in accordance with the regulations towards the cost of the new building, addition, acquisition, structural alteration, renovation or furnishing and equipping, as the case may be, that is applicable to the day nursery.

Time and
manner of
payment

(2) An amount payable to a municipality, a band or an approved corporation under this section shall be paid at the time or times and in the manner as is prescribed by the regulations. 1978, c. 72, s. 9.

Approval of
sale, etc.

10.—(1) No municipality, band or approved corporation shall change the site, structure or use of, or sell, lease, mortgage or otherwise dispose of any part of or interest in any day nursery, in respect of which the municipality, band or approved corporation, as the case may be, has received payment under section 9, without the approval in writing of a Director, and such approval may be made subject to such conditions for repayment in whole or in part of any such payment as the Director considers advisable.

Recovery of
whole or
part of
payment

(2) Where a municipality, band or approved corporation changes the site, structure or use of, or sells, leases, mortgages or otherwise disposes of any part of, or interest in any day nursery without the approval of a Director, or where such approval has been given, is in default of any condition for repayment imposed under subsection (1), the whole or any part of any payment under section 9 in respect of the day nursery may be recovered as a debt due to the Crown from the municipality, band or approved corporation, as the case may be,

(a) out of moneys payable by Ontario to the municipality, band or approved corporation under the authority of any Act; or

(b) by proceedings in any court of competent jurisdiction. 1978, c. 72, s. 10.

Licence
required

11.—(1) No person shall establish, operate or maintain a day nursery or a private-home day care agency, as the case

may be, except under the authority of a licence issued by a Director under this Act.

(2) Subject to section 12, any person who applies in accordance with this Act and the regulations for a licence to establish, operate or maintain a day nursery or a private-home day care agency, as the case may be, and pays the prescribed fee is entitled to be issued a licence by a Director subject to such terms and conditions as the Director may prescribe.

Issuance of
licence

(3) Notwithstanding subsection (2), a licence to establish, operate or maintain a day nursery or a private-home day care agency shall not be issued to a partnership or association of persons.

Idem

(4) Subject to section 12, a Director shall renew a licence of a day nursery or a private-home day care agency, as the case may be, on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee and the renewal shall be subject to such terms and conditions as the Director may prescribe.

Renewal of
licence

(5) Subject to section 12, where an applicant for a licence or a renewal of a licence does not meet all the requirements for the issuance of a licence or renewal thereof and requires time to meet such requirements, a Director may, subject to such terms and conditions as the Director may prescribe, issue a provisional licence for such period or periods as the Director considers necessary to afford the applicant an opportunity to meet the requirements.

Provisional
licence

(6) A licence is not transferable.

Not trans-
ferable

(7) Where the licensee is a corporation, the licensee shall notify a Director in writing within fifteen days of any change in the officers or directors of the corporation. 1978, c. 72, s. 11.

Notice of
change

12.—(1) Subject to section 13, a Director may refuse to issue a licence where in the Director's opinion,

Grounds
for
refusal

- (a) the applicant or any employee of the applicant or, where the applicant is a corporation, its officers, directors or employees is or are not competent to

establish, operate or maintain a day nursery or a private-home day care agency, as the case may be, in a responsible manner in accordance with this Act and the regulations;

- (b) the past conduct of the applicant or any employee of the applicant or, where the applicant is a corporation, of its officers, directors or employees, affords reasonable grounds for belief that the day nursery or the private-home day care agency, as the case may be, will not be established, operated or maintained in accordance with this Act and the regulations; or
- (c) the building or buildings or accommodation in which the applicant proposes to establish, operate or maintain the day nursery or provide private-home day care, as the case may be, does not comply with the requirements of this Act and the regulations.

Revocation
or refusal
to renew

(2) Subject to section 13, a Director may refuse to renew or may revoke a licence issued to a day nursery or a private-home day care agency, where in the Director's opinion,

- (a) the licensee or any employee of the licensee, or where the licensee is a corporation, any officer, director or employee thereof, has contravened or has knowingly permitted any person under the control or direction of or associated with the licensee, officer, director or employee, as the case may be, to contravene,
 - (i) any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the establishment, operation or maintenance of the day nursery or the provision of private-home day care, as the case may be, or
 - (ii) any term or condition of the licence;
- (b) the building or buildings or accommodation in which the day nursery is established, operated or maintained or the private-home day care is provided, does not comply with the requirements of this Act and the regulations;
- (c) the day nursery is established, operated or maintained or the private-home day care is provided in a manner that is prejudicial to the health, safety or welfare of the children cared for in the day nursery

or in the place or places where private-home day care is provided;

- (d) any person has made a false statement in the application for the licence or renewal thereof, or in any report, document or other information required to be furnished by this Act or the regulations or by any other Act or regulation that applies to the day nursery or private-home day care agency, as the case may be; or
- (e) a change in the officers or directors of the applicant would, if the applicant were applying for the licence in the first instance, afford grounds for refusing to issue a licence under clause (1) (b). 1978, c. 72, s. 12.

13.—(1) Where a Director proposes under section 12 to refuse to issue a licence or to refuse to renew or to revoke a licence issued under that section, the Director shall cause notice to be served of the Director's proposal together with written reasons therefor, on the applicant or the licensee, as the case may be. Notice of proposal to refuse to issue or to revoke

(2) A notice under subsection (1) shall inform the applicant or licensee, as the case may be, that the applicant or licensee is entitled to a hearing by the Board if the applicant or licensee mails or delivers, within fifteen days, after the notice is served on the applicant or licensee, notice in writing to the Director and to the Board, requiring a hearing and the applicant or licensee, as the case may be, may so require such a hearing. Notice requiring hearing

(3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection (2), the Director may carry out the proposal stated in the Director's notice under subsection (1) without a hearing. Powers of Director where no hearing

(4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection (2), the Board shall appoint a time for and hold the hearing and, at the hearing, may by order direct the Director to carry out the Director's proposal or refrain from carrying out the Director's proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and, for such purposes, the Board may substitute its opinion for that of the Director. Powers of Board where hearing

(5) Sections 8, 10 and 11 of the *Children's Residential Services Act* apply with necessary modifications to proceedings Application of R.S.O. 1980, c. 71

before the Board, to the powers of the Board under this Act and to appeals therefrom.

Continuation
of licence
pending
renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before expiration of a licence, a licensee has applied for renewal of a licence and paid the prescribed fee, the licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where the licensee is served with notice that the Director proposes to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision. 1978, c. 72, s. 13.

Review of
terms of
licence by
Board

14.—(1) Where a licensee is dissatisfied with the terms and conditions prescribed by a Director under subsection 11 (2), (4) or (5), the licensee may, within fifteen days after the licence is received by the licensee, by written notice given to the Director and the Board, require a hearing by the Board and the Board shall appoint a time for and hold a hearing.

Decision of
Board

(2) The Board, pursuant to a hearing under subsection (1), may affirm the terms and conditions prescribed for the licence by a Director under subsection 11 (2), (4) or (5) or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in lieu of those prescribed by the Director as it considers proper.

Receipt

(3) For the purposes of subsection (1), a licence shall be deemed to be received by a licensee on the tenth day after the day of mailing of the licence unless the person to whom the licence is issued establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the licence until a later date. 1978, c. 72, s. 14.

Directions
where
threat to
children

15.—(1) Where, in the opinion of a Director, there is a threat to the health, safety or welfare of the children cared for in a day nursery or in receipt of private-home day care from a private-home day care agency, as the case may be, the Director shall,

(a) give such direction or directions in writing as the Director considers necessary to the operator or to any person on the premises of the day nursery or

premises where private-home day care is provided who appears to be in charge of the children being cared for, directing the operator or person in charge, as the case may be, immediately or within such period of time as the Director specifies to eliminate the threat to the health, safety, or welfare of the children or to protect the children from such threat,

and may,

- (b) direct in writing that the day nursery shall not be used as a day nursery or that private-home day care not be provided on the premises that is the subject of the direction referred to in clause (a) until the Director's direction or directions are complied with.

(2) Where the Director gives a direction under clause (1) (b), the Director may, Notice to parents, etc.

- (a) notify the parents or guardians of the children enrolled in the day nursery or in receipt of private-home day care, as the case may be, of the direction; and

- (b) cause to be affixed to the premises of the day nursery or premises where private-home day care is provided, as the case may be, a notice in the prescribed form and no person except the Director or a program adviser designated under section 16 shall remove the notice unless authorized by the Director or a program adviser.

(3) Notwithstanding section 13, where a direction is given by the Director under subsection (1), the licence of the day nursery or private-home day care agency, as the case may be, shall be deemed to be suspended without a hearing until the Director is satisfied that the direction has been complied with and upon suspension the provisions of section 13 apply as if the direction were a notice of a proposal to revoke the licence under subsection 13 (1). 1978, c. 72, s. 15. Suspension of licence

16.—(1) The Minister may designate in writing any person to be a program adviser with such powers and duties for the purposes of this Act and the regulations and subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the designation. Program adviser

Remuneration and expenses

(2) The remuneration and expenses of any person appointed under subsection (1) who is not in the employ of the public service of Ontario shall be fixed by the Minister and shall be paid out of the moneys appropriated therefor by the Legislature.

Powers of program advisers

(3) A program adviser may at all reasonable times and upon producing proper identification enter any day nursery or any private-home day care agency, or premises used by a private-home day care agency to provide private-home day care, or any premises that the program adviser on reasonable and probable grounds believes is being used as a day nursery or private-home day care agency or is being used to provide private-home day care by a private-home day care agency and inspect the facilities, the services provided and the books of account, and other records in any such premises.

Access for inspections

(4) Every person when requested so to do by a program adviser shall permit the entry and inspection by the program adviser of the premises referred to in subsection (3) and shall produce and permit inspection of the books of account, enrolment records and other records therein and supply extracts therefrom.

Obstructing inspection

(5) No person shall hinder or obstruct a program adviser in the performance of the program adviser's duties or refuse to permit the program adviser to carry out such duties or refuse to furnish the program adviser with information or furnish the program adviser with false information. 1978, c. 72, s. 16.

Injunction proceedings

17.—(1) A Director may apply to the Supreme Court by originating notice for an order enjoining any person acting in contravention of subsection 11 (1) or subsection 15 (1), and the court in its discretion may make such an order and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court.

Idem

(2) Any person may apply to the Supreme Court for an order varying or discharging any order made under subsection (1). 1978, c. 72, s. 17.

Regulations

18. The Lieutenant Governor in Council may make regulations governing the management, operation and use of day nurseries and private-home day care agencies and classes of either of them and premises where private-home

day care is provided by a private-home day care agency and without limiting the generality of the foregoing may make regulations,

- (a) defining "common parentage" for the purpose of clause 1 (d);
- (b) governing the accommodation, facilities, equipment and services to be provided in,
 - (i) day nurseries, and
 - (ii) premises where private-home day care is provided by a private-home day care agency, or any class thereof;
- (c) governing the establishment, construction, alteration and renovation of,
 - (i) day nurseries, and
 - (ii) premises where private-home day care is provided by a private-home day care agency, or any class thereof;
- (d) prescribing the conditions to be maintained in private residences where private-home day care is furnished under an agreement between a municipality, a council of the band or the Minister and any person;
- (e) providing for the inspection of private residences in which private-home day care is furnished under an agreement between a municipality, the council of the band or the Minister and any person;
- (f) prescribing the qualifications of persons supervising children in a day nursery or any class thereof or on a premises where private-home day care is provided under an agreement between a municipality, the council of the band or the Minister and any person;
- (g) establishing and approving courses of instruction for persons supervising children in day nurseries or any class thereof or on premises where private-home day care is provided and providing for the granting of certificates to those persons who have satisfactorily completed the course of instruction or who otherwise meet the prescribed qualifications;

- (h) governing the issuance, renewal and expiration of licences and the fees payable by an applicant for a licence or renewal thereof;
- (i) governing applications by municipalities, bands and approved corporations for payments under this Act and prescribing the method, time, manner and the terms and conditions for the payment thereof and providing for the suspension and withholding of payment and for the making of deductions from payments;
- (j) requiring the approval of the Minister of budgets submitted and expenditures incurred for the purposes of this Act and the regulations by municipalities, bands and approved corporations;
- (k) prescribing classes of corporations with members that may be approved under section 6 and specifying corporations not members of such classes that may be approved under section 6;
- (l) prescribing classes of payment for the purposes of section 8 and determining the amount of any such payment;
- (m) prescribing the manner of computing costs for the purposes of sections 8 and 9;
- (n) prescribing classes of capital payment for the purposes of section 9, the circumstances under which any such payment or class thereof may be paid, and determining the amounts of any such payments or classes thereof;
- (o) prescribing the accounts and records to be kept, claims, returns, and reports to be made and information to be provided and requiring budgets to be submitted by municipalities, bands, approved corporations, private-home day care agencies and day nurseries and prescribing to whom such information is to be provided;
- (p) governing the confidentiality of,
 - (i) accounts and records required to be kept and claims, returns and reports to be made under this Act and the regulations, and
 - (ii) information provided to a day nursery or a private-home day care agency;

- (q) prescribing the amounts to be contributed towards the cost of private-home day care or services provided in a day nursery on behalf of persons in receipt of such services, and prescribing persons required to contribute such amounts;
- (r) prescribing forms and providing for their use;
- (s) prescribing additional powers and duties of a Director;
- (t) prescribing the terms and conditions upon which in-home services or any class thereof may be provided and prescribing the class or classes of persons who may be eligible for such in-home services;
- (u) for the purposes of this Act and the regulations, defining "services" and "facilities" and prescribing classes of services and facilities;
- (v) prescribing terms and conditions to be included in any agreement entered into under section 3, 4 or 5;
- (w) exempting designated approved corporations, day nurseries, municipalities, bands, or private-home day care agencies from specified provisions of this Act or the regulations for such period or periods of time as the regulations prescribe;
- (x) governing the fees that shall be charged for services provided for private-home day care or in a day nursery;
- (y) prescribing additional powers and duties of program advisers;
- (z) prescribing "special circumstances" for the purposes of clause 8 (4) (b). 1978, c. 72, s. 18.

19.—(1) An application for assistance towards the cost of private-home day care or services provided in a day nursery on behalf of persons in receipt of such services may be made, Application
for
assistance

- (a) where the services are provided in a day nursery operated by a municipality, band or approved corporation or under an agreement entered into under subsection 3 (3), to the person who plans and directs the program of the day nursery and who is in charge of the children;

- (b) where the assistance is for private-home day care under an agreement entered into under subsection 4 (3), to the person who plans and directs the day care program and carries out visits of inspection;
 - (c) to a municipal welfare administrator, a regional welfare administrator or a welfare administrator for an approved band, as the case may be; or
 - (d) to any person designated in writing by the Minister.
- 1978, c. 72, s. 19.

Coming
into force
of subs. (1)

(2) Subsection (1) does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1978, c. 72, s. 23.

Service

20.—(1) Unless otherwise provided for in this Act or the regulations, any notice required to be given, delivered, filed or served under this Act or the regulations is sufficiently given, delivered, filed or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the person's last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the tenth day after the day of mailing unless the person on whom service is being made establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date. 1978, c. 72, s. 20.

Offence

21.—(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;
- (b) contravenes the provisions of subsection 11 (1);
- (c) fails to comply with a direction of the Director under section 15; or
- (d) fails to comply with an order made by a court under section 17,

and every director, officer or employee of a corporation who knowingly concurs in such contravention or failure by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$1,000 for each day on which such offence continues or to imprisonment for a term of not more than one year, or to both.

(2) Every person who contravenes the provisions of ^{Idem} section 16 and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both. 1978, c. 72, s. 21.

CHAPTER 112

Dead Animal Disposal Act

1. In this Act,

Interpre-
tation

- (a) “Board” means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980, c. 270
- (b) “broker” means a person engaged in the business of buying meat obtained from a dead animal and reselling such meat in uncooked form;
- (c) “collector” means a person engaged in the business of collecting dead animals;
- (d) “dead animal” means the carcass, or any part thereof, of a horse, goat, sheep, swine or head of cattle that has died from any cause other than slaughter;
- (e) “Director” means the Director of the Veterinary Services Branch of the Ministry of Agriculture and Food;
- (f) “fallen animal” means a horse, goat, sheep, swine or head of cattle that has been disabled by disease, emaciation or other condition that is likely to cause death;
- (g) “inspector” means an inspector appointed under this Act;
- (h) “licence” means a licence under this Act;
- (i) “Minister” means the Minister of Agriculture and Food;
- (j) “receiving plant” means a premises to which dead animals are delivered for the purpose of obtaining the hide, skin, fats, meat or other product of the dead animals or for the purpose of selling or delivering the dead animals or parts thereof to a rendering plant;

(k) "rendering plant" means a premises at which dead animals are processed into hides, meat, bone meal, meat meal or inedible fats;

(l) "slaughter" means slaughter for the purpose of processing into food for human consumption. R.S.O. 1970, c. 105, s. 1; 1971, c. 50, s. 26 (1); 1972, c. 1, s. 1; 1972, c. 60, s. 1; 1978, c. 100, s. 6 (1).

Application

2. This Act does not apply to,

R.S.C. 1970,
c. M-7

(a) establishments operating under the *Meat Inspection Act* (Canada); and

(b) dead animals while held for post mortem examination, investigation or loss adjustment. R.S.O. 1970, c. 105, s. 2; 1972, c. 60, s. 2.

Responsi-
bility of
owner

3.—(1) The owner of a dead animal shall dispose of it within forty-eight hours of its death,

(a) by burying it with a covering of at least two feet of earth; or

(b) by the services of a person licensed as a collector under this Act. 1972, c. 60, s. 3.

Fallen
animals

(2) The owner of a fallen animal shall kill it in a humane manner and dispose of it in accordance with subsection (1).

Idem

(3) No person shall move a fallen animal before it has been killed. R.S.O. 1970, c. 105, s. 3 (2, 3).

Slaughter
prohibited

4.—(1) No person shall slaughter an animal at a receiving plant or a rendering plant. R.S.O. 1970, c. 105, s. 4 (1).

Collector

(2) No collector shall give, sell or deliver a dead animal to any person other than the holder of a licence as an operator of a receiving plant or a rendering plant under this Act. 1972, c. 60, s. 4.

Processing,
selling
or storing
meats

(3) No person shall process, store, offer for sale or sell meat or products made therefrom for human consumption at a receiving plant or a rendering plant. R.S.O. 1970, c. 105, s. 4 (3).

Prohibition
against
sale, etc.

(4) No person shall give, sell, offer for sale, process, transport or deliver to any person as food for human

consumption meat obtained from a dead animal. 1976, c. 30, s. 1.

5.—(1) No person shall engage in the business of, Licensing

(a) a broker;

(b) a collector;

(c) an operator of a receiving plant; or

(d) an operator of a rendering plant,

without a licence therefor from the Director.

(2) No person shall collect a dead animal unless he is Prohibition
the holder of a licence as a collector. 1972, c. 60, s. 5.

6.—(1) The Director shall issue a licence to a person who Licence,
issue
makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

(a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business that would be authorized by the licence;

(b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law;

(c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business authorized by the licence in accordance with this Act and the regulations; or

(d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

(2) Subject to section 7, the Director shall renew a Renewal
licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1971, c. 50, s. 26 (3), *part*.

7.—(1) The Director may refuse to renew or may suspend or Refusal
to renew,
suspension
or cancel-
lation
revoke a licence if, after a hearing, he is of opinion that,

- (a) the premises, facilities and equipment used in the business carried on pursuant to the licence do not comply with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business carried on pursuant to the licence to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the carrying on of such business or the conditions for licensing and such contravention warrants such refusal to renew, suspension or revocation of the licence; or
- (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Provisional
suspension,
etc.

(2) Notwithstanding subsection (1), the Director, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Director's opinion it is necessary to do so for the immediate protection of the safety or health of any person or of the public and the Director so states in such notice giving his reasons therefor, and thereafter the Director shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or revoked under this Act and the regulations.

Continuation
of licence
pending
renewal

(3) Subject to subsection (2), where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal. 1971, c. 50, s. 26 (3), *part.*

Notice of
hearing

8.—(1) The notice of a hearing by the Director under section 6 or 7 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination
of docu-
mentary
evidence

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 26 (3), *part.*

9. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1971, c. 50, s. 26 (3), *part*. Variation
of decision
by Director

10.—(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board. Appeal to
Board

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension. Extension
of time
for appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director. Disposal
of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of. 1971, c. 50, s. 26 (3), *part*. Effect of
decision
pending
disposal
of appeal

11.—(1) The Director, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act. Parties

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly Members
making
decision
not to
have taken
part in
investigation,
etc.

or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings
of fact

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,
c. 484

Only
members at
hearing to
participate
in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all persons so present participate in the decision. 1971, c. 50, s. 26 (3), *part*.

Appeal to
court

12.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister
entitled to
be heard

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to
be filed in
court

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of
court on
appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1971, c. 50, s. 26 (3), *part*.

Effect of
decision of
Board
pending
disposal of
appeal

13. Every licence is subject to the conditions that the holder of the licence,

Conditions
of licence

- (a) maintains in good mechanical and sanitary condition all vehicles, premises and equipment used in the collecting and handling of dead animals and the disposing of the carcasses and parts thereof;
- (b) carries on his business in a manner that prevents any relationship between the ownership, management or operation of his business and any business in respect of the slaughtering of animals or the processing or sale of meat for human consumption;
- (c) takes all reasonable precautions to prevent the spread of any disease that caused the deaths of the animals; and
- (d) complies with this Act and the regulations and any other conditions that are imposed by the regulations. R.S.O. 1970, c. 105, s. 6.

14.—(1) A collector shall make and keep for at least twelve months a record of the dead animals he collects and the disposal thereof as prescribed in the regulations.

Records

(2) An operator of a receiving plant shall make and keep for at least twelve months a record of the dead animals he receives and of the disposal thereof as prescribed in the regulations. R.S.O. 1970, c. 105, s. 7 (1, 2).

Idem

(3) An operator of a rendering plant shall make and keep for at least twelve months a record of the dead animals he receives and of the disposal thereof as prescribed in the regulations. R.S.O. 1970, c. 105, s. 7 (3); 1972, c. 60, s. 6 (1).

Idem

(4) A broker shall make and keep for at least twelve months a record of all meat obtained from dead animals received by him and of the disposal thereof as prescribed in the regulations. 1972, c. 60, s. 6 (2).

Idem

15.—(1) The Minister may appoint a chief inspector and one or more inspectors to carry out and enforce this Act and the regulations.

Inspectors

Certificate
of appoint-
ment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister. R.S.O. 1970, c. 105, s. 8 (1, 2).

Powers

(3) Subject to subsection (4), the Director or an inspector may, for the purpose of carrying out his duties under this Act,

- (a) enter and inspect any building, premises or conveyance,
 - (i) that is used in the collecting, transporting or processing of a dead animal or meat obtained therefrom, or
 - (ii) in which he believes on reasonable and probable grounds there is a dead animal or meat obtained therefrom;
- (b) require the production or furnishing by the owner or custodian thereof of any books, records or documents, or of extracts therefrom, of persons licensed under this Act or relating to dead animals or meat obtained therefrom; and
- (c) seize, remove and detain any dead animal, or meat obtained therefrom, where he believes on reasonable and probable grounds that there is a violation of this Act or the regulations in respect thereof. 1972, c. 60, s. 7 (1).

Power
to enter
dwelling
R.S.O. 1980,
c. 400

(4) Except under the authority of a warrant under section 142 of the *Provincial Offences Act*, the Director or an inspector shall not enter any part of a dwelling without the consent of the occupant. 1971, c. 50, s. 26 (5).

Production
of records,
etc.

(5) Where the Director or an inspector requires the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the Director or inspector and the Director or inspector may detain them for the purpose of making copies therefrom and thereafter return them to the person who produced or furnished them.

Certification
of copy

(6) Where a copy of a book, record, document or extract is made under subsection (5) and is certified by a person thereunto authorized, it is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. 1972, c. 60, s. 7 (2).

16. No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information, or refuse to furnish him with information. ^{Obstruction of inspector} R.S.O. 1970, c. 105, s. 9.

17. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months. ^{Offences} R.S.O. 1970, c. 105, s. 10.

18. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences and prescribing the fees payable for licences or the renewal thereof;
- (b) prescribing grounds for the refusal to renew, suspension or revocation of licences in addition to those grounds mentioned in clauses 7 (1) (a) and (b);
- (c) prescribing conditions for licensing in addition to those mentioned in section 13;
- (d) prescribing the duties of inspectors;
- (e) prescribing the manner in which vehicles and premises used in the collecting and handling of dead animals shall be cleaned, disinfected and maintained;
- (f) respecting the transportation of dead animals and the products obtained therefrom;
- (g) providing for the processing at a receiving plant or a rendering plant of meat obtained from dead animals and for the treatment of the meat for purposes of identification;
- (h) providing for the exemption from the regulations, or any part thereof, of any person or group of persons or any class or classes of meat;
- (i) respecting the facilities and equipment to be provided and maintained at receiving plants and rendering plants;
- (j) respecting advertising by any person respecting dead animals, fallen animals or meat obtained from dead animals;

- (*k*) providing for the labelling of products obtained from dead animals or parts thereof;
- (*l*) providing for the disposition of dead animals or any parts thereof or meat obtained therefrom;
- (*m*) prescribing the records to be made and kept by collectors and by operators of receiving plants and rendering plants and by brokers;
- (*n*) prescribing forms and providing for their use;
- (*o*) governing the seizure, removal, detention and disposal of dead animals or meat obtained therefrom for the purposes of clause 15 (3) (*c*);
- (*p*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 105, s. 11; 1972, c. 60, s. 8; 1976, c. 30, s. 2.

CHAPTER 113

Debt Collectors Act

1. Every person, whether principal or agent, who prints or publishes a notice or form that is an imitation or a colourable imitation of any of the forms appended to the *Small Claims Courts Act*, or of other legal process, and that is calculated to deceive the public by inducing the belief that such notice or form is a notice or form from a court, or is part of the process of a court, or who issues or makes use of such a notice or form in connection with a collection agency or otherwise, is guilty of an offence and on conviction is liable to a fine of not more than \$20. Penalty for issuing imitations of small claims court notices R.S.O. 1980, c. 476 R.S.O. 1970, c. 106, s. 1.

CHAPTER 114

Dental Technicians Act

1. In this Act,

Interpre-
tation

(a) "Board" means the Governing Board of Dental Technicians;

(b) "dental technician" means a person who upon the prescriptions or orders of legally qualified dentists or physicians makes, produces, reproduces, constructs, furnishes, supplies, alters or repairs any prosthetic denture, bridge, appliance or thing to be used in, upon or in connection with a human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof;

(c) "register" means the register under this Act. R.S.O. 1970, c. 107, s. 1.

2.—(1) The board of governors known as the Governing Board of Dental Technicians established under *The Dental Technicians Act, 1946* is continued and shall be composed of five persons appointed by the Lieutenant Governor in Council.

(2) The Board is hereby constituted a corporation and the Board may, for its purposes, purchase, acquire, hold, mortgage, lease and dispose of real and personal property.

(3) Every member of the Board shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office.

(4) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

(5) The chairman, the vice-chairman and the secretary-treasurer of the Board shall be elected by the Board from time to time from among its members.

Member
ex officio

(6) In addition to the five members of the Board mentioned in subsection (1), the immediate past chairman of the Board is a member *ex officio* of the Board for a period of one year immediately following his term of office as chairman. R.S.O. 1970, c. 107, s. 2.

Regulations

3.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) providing for the admission of dental technicians to carry on business in Ontario and for the registration of all persons so admitted, including the fees payable for registration;
- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;
- (c) providing for the examination of applicants for registration and prescribing the fees payable for such examination;
- (d) providing for the establishment of a committee of examiners to conduct examinations and prescribing the fees payable to examiners;
- (e) providing for maintaining a register of persons so admitted to carry on business and providing for the annual renewal of registration and prescribing the fees payable thereon;
- (f) prescribing the discipline and control of registered technicians, including the adoption and enforcement of reasonable canons of ethics;
- (g) providing for the investigation of any complaint that a dental technician has been guilty of misconduct or displayed such incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (h) providing for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or to have been incompetent, and, in addition to or as an alternative for such cancellation or suspension, providing for the assessment against and the recovery from any such dental technician of the expense, or part of the expense, incurred by the Board in the investigation and hearing conducted by the Board with respect to such misconduct or incompetence;

- (i) defining "misconduct" for the purpose of this section and the regulations;
- (j) providing for the payment of reasonable fees and disbursements to members of the Board in respect of the discharge of the duties of the Board;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) All regulations made by the Board shall be submitted in writing to The Royal College of Dental Surgeons of Ontario not less than thirty days before being submitted to the Lieutenant Governor in Council for approval, and any submissions on the part of the College with respect to any such regulations shall be presented to the Lieutenant Governor in Council with the application for approval of the regulations. Submission to College
R.S.O. 1970, c. 107, s. 3.

4.—(1) A person registered under this Act has the right to use the designation "Registered Dental Technician" or the letters "R.D.T." and may describe his business as a dental laboratory. Designation:

(2) A person is not entitled to use the designation "Dental Technician" or "Registered Dental Technician" or any other name, title, initials or description implying that he is a dental technician unless he is registered under this Act. use of, prohibited
R.S.O. 1970, c. 107, s. 4.

5. Nothing in this Act or the regulations applies to or affects the practice of any profession or calling by any person practising the profession or engaged in the calling under the authority of any general or special Act of the Legislature. Right to practise profession
R.S.O. 1970, c. 107, s. 5.

6.—(1) In this section, "dentists in association" means dentists practising together in the same suite of offices in the same building and sharing the expenses of their practices. Interpretation

(2) Nothing in this Act or the regulations shall be deemed to prohibit, When un-registered persons not affected

(a) a person licensed to engage in the practice of dentistry under Part II of the *Health Disciplines Act*; R.S.O. 1980, c. 196

(b) a person licensed to engage in the practice of medicine under Part III of the *Health Disciplines Act*;

- (c) a hospital dispensary, university or municipal clinic acting upon the prescription or order of a legally qualified dentist or medical practitioner;
- (d) apprenticed dental technicians and other persons working as employees of a registered dental technician; or
- (e) a person who is not a dental technician and who is a full-time employee of one dentist or of not more than three dentists in association where no dental laboratory services are furnished by the dentist or dentists in association or the employee,

from performing work or services ordinarily performed by a dental technician.

Application
of cl. (2) (e)

(3) Clause (2) (e) does not apply to any person who was employed as a dental technician in a lawful manner on the 1st day of July, 1961 so long as he remains in such employment. R.S.O. 1970, c. 107, s. 6, *revised*.

Corporations

7.—(1) No corporation shall operate a dental laboratory,

- (a) unless the majority of the directors are registered dental technicians;
- (b) unless a majority of each class of shares of the corporation is owned by and registered in the names of registered dental technicians; and
- (c) unless a registered dental technician is at all times in charge of the actual operations of the laboratory.

Offences

(2) Every registered dental technician on the board of directors of a corporation that operates a dental laboratory and the registered dental technician in charge of the actual operations of the laboratory shall be deemed guilty of any contravention of this Act by the corporation. R.S.O. 1970, c. 107, s. 7.

R.S.O. 1980,
c. 196
to apply

8. Nothing in this Act or the regulations limits, alters or affects the application of any provision of Part II of the *Health Disciplines Act* or of any regulation made thereunder. R.S.O. 1970, c. 107, s. 8, *revised*.

Offences

9. Every person who, not being registered under this Act, carries on business or holds himself out as carrying on business as a dental technician, or who advertises or uses or affixes any prefix or suffix to his name signifying that he is

carrying on business as a dental technician or that he is qualified to carry on business as a dental technician, is guilty of an offence and on conviction is liable to a fine of \$100 for a first offence, \$200 for a second offence, and \$300 for a third or subsequent offence. R.S.O. 1970, c. 107, s. 9.

10. In all cases where proof of registration under this Act is required to be made, the production of a certificate under the hand of the secretary-treasurer of the Board is sufficient evidence of the registration or non-registration of the person or persons named therein in lieu of the production of the original register, and any such certificate purporting to be signed by a person in his capacity of secretary-treasurer of the Board is *prima facie* evidence of his signature and election. R.S.O. 1970, c. 107, s. 10.

11. Any fine imposed for a contravention of this Act shall be paid over by the convicting provincial offences court to the Board. R.S.O. 1970, c. 107, s. 11.

CHAPTER 115

Denture Therapists Act

1. In this Act,

Interpre-
tation

- (a) "Appeal Board" means the Denture Therapists Appeal Board established under section 13;
- (b) "Board" means the Governing Board of Denture Therapists under section 2;
- (c) "Complaints Committee" means the Complaints Committee of the Board established under this Act;
- (d) "dental surgeon" means a member of The Royal College of Dental Surgeons of Ontario;
- (e) "denture therapist" means a person licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy;
- (f) "Discipline Committee" means the Discipline Committee of the Board established under this Act;
- (g) "Executive Committee" means the Executive Committee of the Board established under this Act;
- (h) "incompetence" means the display of a lack of knowledge, skill or judgment in the professional care of a patient or disregard for the welfare of a patient of a nature or to an extent that demonstrates that the denture therapist is unfit to continue in the practice of denture therapy or the practice of supervised denture therapy, as the case may be;
- (i) "licence" means a licence to engage in the practice of denture therapy or the practice of supervised denture therapy as may be specified in the licence, and includes a provisional licence to engage in the practice of denture therapy;

- (j) "licensee" means a person who is licensed under this Act to engage in the practice of denture therapy or the practice of supervised denture therapy and includes a person who is provisionally licensed to engage in the practice of denture therapy;
- (k) "Minister" means the Minister of Health;
- (l) "practice of denture therapy" means,
 - (i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch;
 - (ii) the fitting of any complete upper or complete lower prosthetic denture or both, to an edentulous arch, and
 - (iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing complete upper or complete lower prosthetic dentures or both in respect of which a service is performed under subclause (i) or (ii);
- (m) "practice of supervised denture therapy" means,
 - (i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,
 - (ii) the fitting of any removable prosthetic denture, and
 - (iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing removable prosthetic dentures in respect of which a service is performed under subclause (i) or (ii);
- (n) "professional misconduct" means professional misconduct as defined in the regulations;

(o) "Registrar" means the officer of the Board appointed as Registrar under subsection 2 (8);

(p) "Registration Committee" means the Registration Committee of the Board established under this Act;

(q) "regulations" means the regulations made under this Act. 1974, c. 34, s. 1.

2.—(1) There shall be a board to be known as the Governing Board of Denture Therapists composed of members appointed by the Lieutenant Governor in Council. Governing Board of Denture Therapists

(2) The Board shall be composed of three members representing the public interest and six denture therapists. Composition of Board

(3) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman. 1974, c. 34, s. 2 (1-3). Chairman

(4) Every member of the Board shall be appointed for a term of one, two or three years and is eligible for reappointment. 1980, c. 79, s. 1. Term of office

(5) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) The Board is a corporation and for its purposes may purchase, acquire, hold, mortgage, lease and dispose of real and personal property. Board a corporation

(7) Five members of the Board, at least one of whom shall be a member appointed to represent the public interest, constitute a quorum. Quorum

(8) The Board may employ such officers and employees as are considered necessary for carrying out the duties and functions of the Board and shall appoint an officer of the Board as Registrar. Staff

(9) The objects of the Board are, Objects

(a) to regulate the practice of denture therapy and the practice of supervised denture therapy;

- (b) to establish, maintain and develop standards of knowledge and skill among denture therapists;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of denture therapy and the practice of supervised denture therapy;
- (d) to establish, maintain and develop standards of professional ethics among licensees,

in order that the public interest may be served and protected.

Duties

(10) The Board shall,

- (a) review the operation of this Act and the regulations and make recommendations to the Minister thereon;
- (b) approve or set courses of study and examinations for the qualification of applicants for licences;
- (c) perform such other duties as are assigned to it by this Act or the regulations or by any other Act.

Remuneration

(11) The members of the Board shall be paid such remuneration for their services and allowances for expenses as are fixed by the Lieutenant Governor in Council. 1974, c. 34, s. 2 (5-10).

Practice of denture therapy

3.—(1) No person, other than a dental surgeon or a person licensed under this Act as a denture therapist, shall engage in or hold himself out as qualified or entitled to engage in the practice of denture therapy or the practice of supervised denture therapy.

Exception

(2) Subsection (1) does not apply to a student attending a course of study set or approved by the Board and acting under the personal supervision of a person licensed under this Act to engage in the practice of denture therapy for the purpose of completing qualifying studies or practical experience required under the regulations.

Proof of practice

(3) For the purpose of subsection (1), proof of the performance of one act in the practice of denture therapy or the practice of supervised denture therapy on one occasion is sufficient to establish engaging in the practice of denture therapy or the practice of supervised denture therapy, as the case may be. 1974, c. 34, s. 3.

Issuance of licences

4.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Act and the regulations

and has passed such examinations as the Board may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached.

- (2) The Registration Committee,

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Board may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

Powers and duties of Registration Committee
- (3) The Registration Committee may direct the Registrar

Idem

to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.
- (4) The Registration Committee may review the qualifications of any licensee and may impose a term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Review of qualifications
- (5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to engage in the practice of denture therapy or the practice of supervised denture therapy, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Registers of licensees
- (6) No licensee whose licence is limited to the practice of supervised denture therapy shall practise intra-oral procedures of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Practice of supervised denture therapy
- (7) A person who is licensed to engage in the practice of denture therapy may also engage in the practice of supervised denture therapy but shall not practise intra-oral procedures associated with the practice of supervised denture therapy that are not associated with the practice

Idem

of denture therapy on a patient except in the office of a dental surgeon or dental clinic and under the direct supervision of a dental surgeon.

Duty of
dental
surgeon

(8) Every dental surgeon who uses the services of a denture therapist shall personally supervise the work of the denture therapist on a patient and shall inform himself of all aspects of the progress of the work.

Acts
outside
scope of
practice

(9) No licensed denture therapist shall perform any act in the practice of dentistry except within the scope of the practice of denture therapy or supervised denture therapy performed in the manner required by this Act.

Cancellation
for
default of
fees

(10) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the licensee at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the Board in respect of any disciplinary action arising out of his professional conduct while a licensee. 1974, c. 34, s. 4.

Establish-
ment of
committees

5.—(1) The Board shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Board from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of any committee, the members remaining in office constitute the committee so long as their number is not fewer than the prescribed quorum. 1974, c. 34, s. 5.

Executive
Committee

6.—(1) The Executive Committee shall be composed of three persons who are members of the Board of whom one shall be a person appointed to represent the public interest.

Quorum

(2) Two members of the Executive Committee constitute a quorum.

(3) The Executive Committee shall perform such functions ^{Duties} of the Board as are delegated to it by the Board, the by-laws or this Act and, subject to ratification by the Board at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a regulation or by-law. 1974, c. 34, s. 6.

7.—(1) The Registration Committee shall be composed ^{Registration Committee} of four members of the Board of whom one shall be a person appointed to represent the public interest.

(2) The Board shall name one member of the Registration ^{Chairman} Committee to be chairman.

(3) Three members of the Registration Committee con- ^{Quorum} stitute a quorum. 1974, c. 34, s. 7.

8.—(1) The Complaints Committee shall be composed of ^{Complaints Committee} four members of the Board of whom one shall be a person appointed to represent the public interest.

(2) No person who is a member of the Discipline Committee ^{Idem} shall be a member of the Complaints Committee.

(3) The Board shall name one member of the Complaints ^{Chairman} Committee to be its chairman.

(4) Three members of the Complaints Committee con- ^{Quorum} stitute a quorum. 1974, c. 34, s. 8.

9.—(1) The Complaints Committee shall consider and ^{Duties} investigate complaints made by members of the public or members of the Board regarding the conduct or actions of any person licensed or provisionally licensed under this Act, but no action shall be taken by the Committee under subsection (2) unless,

(a) a written complaint has been filed with the Registrar and the person whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred in whole or in part to the Discipline Committee or to the Executive Committee for the purposes of section 12; or
- (b) direct that the matter not be referred under clause (a); or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

Decision

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 15 and, where the decision is taken under clause (2) (b), written reasons therefor. 1974, c. 34, s. 9.

Discipline Committee

10.—(1) The Discipline Committee shall be composed of five members of the Board, of whom two shall be persons appointed to represent the public interest.

Quorum and votes

(2) Three or more members of the Discipline Committee, of whom one shall be a person appointed to represent the public interest, constitute a quorum and all disciplinary decisions require the vote of a majority of the members present at the meeting.

Chairman

(3) The Board shall name one member of the Discipline Committee to be its chairman.

Disability of lay member

(4) Where a quorum of the Discipline Committee commences a hearing and the member thereof who represents the public interest is unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

Reference by Board or Executive Committee

(5) Notwithstanding any other provision of this Act, the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a licensee. 1974, c. 34, s. 10.

Duties of Discipline Committee

11.—(1) The Discipline Committee shall,

- (a) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any licensee;

- (b) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee pursuant to this Act; and
- (c) perform such other duties as are assigned to it by the Board.

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall, ^{Idem}

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the licensee is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the licensee guilty of professional misconduct or of incompetence.

(3) A licensee may be found guilty of professional misconduct by the Committee if, ^{Professional misconduct}

- (a) he has been found guilty of an offence relevant to his suitability to practise, upon proof of such conviction; or
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

(4) The Discipline Committee may find a licensee to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice. ^{Incompetence}

(5) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence it may ^{Powers of Discipline Committee} by order,

- (a) revoke the licence of the licensee;
- (b) suspend the licence of the licensee for a stated period;

- (c) impose such restrictions on the licence of the licensee for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the licensee, and if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

Costs

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the licensee for his costs or such portion thereof as the Discipline Committee fixes.

Stay on
appeal for
incom-
petence

(7) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Stay on
appeal for
professional
misconduct

(8) Where the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned.

Service of
decision of
Discipline
Committee

(9) Where the Discipline Committee finds a licensee guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the licensee.

Continuation
on expiry of
Committee
membership

(10) Where a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. 1974, c. 34, s. 11.

12.—(1) In this section,Interpre-
tation

(a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection (2);

(b) “incapacitated licensee” means a licensee suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the licensee that he no longer be permitted to practise or that his practice be restricted.

(2) Where the Registrar receives information leading him to believe that a licensee may be an incapacitated licensee he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the licensee, appoint a board of inquiry composed of at least two licensees and one member of the Board representing the public interest who shall inquire into the matter.

Reference
to board
of inquiry

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the licensee to submit to physical or mental examination by such qualified person as the board designates and if the licensee refuses or fails to submit to such examination, the board may order that his licence be suspended until he complies.

Examination

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection (3) to the licensee about whom the report is made and, if in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the licensee's licence until the determination of the question of his capacity becomes final.

Hearing by
Registration
Committee

(5) The Board, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to the hearing.

Parties

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical

Medical
evidence

facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceedings,

- (a) where the evidence is required by the Board, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

Powers of
Registration
Committee

(7) The Registration Committee shall, after the hearing,

- (a) make a finding as to whether or not the licensee is an incapacitated licensee; and
- (b) where the licensee is found to be an incapacitated licensee by order,
 - (i) revoke his licence,
 - (ii) suspend his licence for such period as the Committee considers appropriate, or
 - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

Appeals

(8) Any party to the proceedings before the Registration Committee under this section may appeal from its decision or order to the Divisional Court in accordance with the rules of court and the provisions of section 20 apply with necessary modifications as if it were an appeal from a decision or order of the Discipline Committee. 1974, c. 34, s. 11a.

Denture
Therapists
Appeal
Board

13.—(1) There shall be a board to be known as the Denture Therapists Appeal Board.

Composition

(2) The Appeal Board shall be composed of not fewer than five and not more than seven members who shall be

appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council shall designate one of the members of the Appeal Board to be chairman and one to be vice-chairman.

(3) No person who is employed in the public service of Ontario or of any agency of the Crown, or who is or has been a member of the governing body of a health discipline or who is or has been registered under this Act or any other Act governing a health practice shall be a member of the Appeal Board. Disqualification

(4) The members of the first Appeal Board may be appointed for a term of one, two or three years and thereafter appointments and reappointments shall be for a term of three years. Term

(5) Every vacancy on the Appeal Board caused by the death, resignation or incapacity of a member, may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member. Vacancies

(6) A majority of the members of the Appeal Board constitutes a quorum. Quorum

(7) The members of the Appeal Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(8) The Appeal Board may prescribe and adopt a seal. Seal

(9) Such employees as are necessary to carry out the duties of the Appeal Board under this Act shall be employed under the *Public Service Act*. 1974, c. 34, s. 12. Appeal Board employees
R.S.O. 1980,
c. 418

14.—(1) The Appeal Board shall,

Duties of
Appeal
Board

(a) conduct such hearings and perform such duties as are assigned to it by or under this Act; and

(b) submit an annual report on its activities to the Minister which shall include such additional information as the Minister may require and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the

Assembly if it is in session or, if not, at the next ensuing session.

Expert
advice

(2) The Board may obtain expert or professional advice in connection with a hearing or complaint but the adviser shall be a person independent of,

(a) the parties in the case of a hearing; or

(b) the complainant and the licensee complained against in the case of a complaint,

and in the case of a hearing, the nature of the advice shall be made known to the parties in order that they may make submissions as to the advice. 1974, c. 34, s. 13.

Complaints

15.—(1) Where the Complaints Committee has made a disposition of a complaint respecting a licensee in accordance with the provisions of this Act, the Registrar shall send to the licensee and to the complainant by prepaid first class mail, a copy of the written decision made by the Complaints Committee including reasons therefor, if any, together with notice advising the complainant of his right of review under subsection (2).

Review of
complaints

(2) A complainant or the licensee complained against who is not satisfied with the decision made by the Complaints Committee disposing of a complaint, except a decision to refer a matter to the Discipline Committee, may within twenty days of receipt of the written decision request the Appeal Board to review the decision and the Appeal Board shall require the Registrar to transmit to the Appeal Board within fifteen days of the Appeal Board's request, a record of the investigation and all such documents and things upon which the decision was based and the Appeal Board shall review the decision after giving the complainant an opportunity to state his complaint and the licensee an opportunity to state his answer thereto, either personally, by his agent or in writing. 1974, c. 34, s. 14.

Investiga-
tion of
complaint
by
Appeal
Board

16. Where a complaint respecting a licensee has not been disposed of by the Complaints Committee within sixty days after the complaint is made, the Appeal Board upon application therefor may require the Complaints Committee to make an investigation and, where the investigation of the complaint has not been undertaken, completed and reported on to the Appeal Board by the committee within sixty days after the Appeal Board's request, the Appeal Board shall undertake such investigation and possesses all the powers of investigation that the Complaints Committee or the Registrar has conferred upon it in this Act. 1974, c. 34, s. 15.

17.—(1) The Appeal Board may after review or investigation of a complaint under section 15 or 16 refer the complaint to the Complaints Committee and the Appeal Board may, Powers of Appeal Board after review or investigation of complaint

- (a) confirm the decision, if any, made by the Complaints Committee;
- (b) make such recommendations to the Complaints Committee as the Appeal Board considers appropriate; or
- (c) require the Complaints Committee to take such action or proceedings as the committee is authorized to undertake under this Act.

(2) Three members of the Appeal Board constitute a quorum for purposes of investigation or review of a complaint or for a hearing. Appeal Board quorum

(3) The Appeal Board shall give its decision and reasons therefor in writing to the complainant and the licensee complained against. 1974, c. 34, s. 16. Decision and reasons

18.—(1) Where the Registration Committee proposes to refuse to grant a licence to an applicant, or proposes to attach terms, conditions or limitations to a registration, the Registrar on behalf of the committee shall serve notice of the proposal of the committee, together with written reasons therefor, on the applicant or licensee and a copy thereof to the Appeal Board. Notice of proposal to refuse registration

(2) Subsection (1) does not apply to a refusal to grant a licence to a person who was previously licensed and whose licence was suspended or revoked as a result of a decision of the Discipline Committee. Exemptions

(3) A notice under subsection (1) shall inform the applicant or licensee that he is entitled to a hearing by the Appeal Board or to a review by the Appeal Board of his application and documentary evidence in support thereof without oral evidence, if he mails or delivers within fifteen days after the notice under subsection (1) is served on him, notice in writing to the Appeal Board requiring a hearing or such review by the Appeal Board, as he specifies. Notice requiring hearing or review

(4) Where an applicant or licensee does not require a hearing or review by the Appeal Board in accordance with subsection (3), the Appeal Board shall so notify the Registration Committee and the committee may carry out the proposal stated in its notice under subsection (1). Powers of Registration Committee where hearing or review

Findings
of fact

(5) The findings of fact of the Appeal Board pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,
c. 484

Procedures
on hearings

(6) The provisions of subsections 19 (2) to (5) and 19 (7) and (8) apply with necessary modifications to proceedings before the Appeal Board under this section.

Powers of
Appeal
Board upon
hearing or
review

(7) The Appeal Board shall, after the hearing or review,

- (a) confirm the proposed decision of the Registration Committee; or
- (b) require the Registration Committee to permit the applicant to take qualifying examinations or additional training as a condition for licensing, or both as specified by the Registration Committee; or
- (c) require the Registration Committee to direct the Registrar to register the applicant on any appropriate register subject to such conditions as the Appeal Board considers appropriate in cases where the Appeal Board finds that the applicant meets the requirements for licensing and that the committee has exercised its powers improperly; or
- (d) refer the matter back to the Registration Committee for further consideration and the Appeal Board may make such recommendations as it considers appropriate in the circumstances.

Parties

(8) The Registration Committee and the applicant or licensee are parties to proceedings before the Appeal Board under this section.

Appeals

(9) Any party to proceedings before the Appeal Board under this section may appeal from its decision or order to the Divisional Court in accordance with the rules of court and the provisions of section 20 apply with necessary modifications as if it were an appeal from a decision or order of the Discipline Committee. 1974, c. 34, s. 17.

Parties to
discipline
proceedings

19.—(1) In proceedings before the Discipline Committee, the Board and the licensee whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination
of
documentary
evidence

(2) A licensee whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which shall be given in evidence at the hearing.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the committee may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members holding hearing not to have taken part in investigation, etc.

(4) Notwithstanding anything in the *Statutory Powers Procedure Act*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Registrar before the day fixed for the hearing, the committee shall conduct the hearing in public except where,

In camera
R.S.O. 1980,
c. 484

(a) matters involving public security may be disclosed;
or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at their own cost.

Recording of evidence

(6) Notwithstanding the *Statutory Powers Procedure Act*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Evidence

(7) No member of the Discipline Committee shall participate in a decision of the committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the committee within a reasonable time after the matter in issue has been finally determined. 1974, c. 34, s. 18.

Release of documentary evidence

20.—(1) Any party to proceedings before the Discipline Committee may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Appeal to court

Powers of
court on
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the committee appealed from and may exercise all powers of the committee and may direct the committee or the Board to take any action which the committee or the Board may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the committee, or the court may refer the matter back to the committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1974, c. 34, s. 19.

Restoration
of licence

21.—(1) A person whose licence has been revoked or suspended for cause under this Act may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension.

Reference to
Discipline
Committee
or Regis-
tration
Committee

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Board and to the former licensee.

Procedures

(3) The provisions of this Act applying to proceedings of the Appeal Board on hearings and review in respect of applications for registration, except subsection 18 (9) apply, with necessary modifications, to proceedings of the Registration Committee and Discipline Committee under this section. 1974, c. 34, s. 20.

Investiga-
tion of
members

22.—(1) Where the Registrar believes on reasonable and probable grounds that a licensee has committed an act of professional misconduct or incompetence, the Registrar may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the licensee in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to

the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Obstruction
of
investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Search
warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the person whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the person whose practice is being investigated.

Removal of
books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admissi-
bility of
copies

(7) The Registrar shall report the results of the investigation to the Board or the Executive Committee or to such other committee as he considers appropriate. 1974, c. 34, s. 21.

Report of
Registrar

Matters
confidential

23.—(1) Every person employed in the administration of this Act, including any person making an inquiry or investigation under section 22 and any member of the Board or a Committee shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 22 and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws. 1974, c. 34, s. 22.

Regu-
lations

24.—(1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Board may make regulations,

- (a) respecting any matter ancillary to the provisions of this Act with regard to the issuing, suspension and revocation of licences;
- (b) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (c) providing for the maintenance and inspection of registers of persons permitted to practise;
- (d) governing standards of practice for the profession;
- (e) authorizing persons other than licensees to perform specified acts in the practice of denture therapy under the supervision or direction of a licensee;
- (f) prohibiting the practice of denture therapy where there is a conflict of interest and defining the activities that shall constitute a conflict of interest for the purpose;

- (g) defining professional misconduct for the purposes of this Act;
- (h) providing for a program of continuing education of licensees to maintain their standard of competence and requiring licensees to participate in such continuing education;
- (i) providing for the establishment and operation of an appraisal committee for the purposes of examining and assessing the standard of practice of licensees and reporting thereon to the Board and examining and assessing the standards of practice, qualifications and continuing education of licensees and making recommendations to the Registration Committee thereon;
- (j) regulating, controlling and prohibiting the use of terms, titles or designations by licensees or groups or associations of licensees in respect of their practices;
- (k) respecting the reporting and publication of decisions in disciplinary matters;
- (l) providing for the compilation of statistical information on the supply, distribution and professional activities of licensees and requiring licensees to provide the information necessary to compile such statistics;
- (m) respecting the duties and authority of the Registrar;
- (n) requiring and providing for the inspection and examination of the office, records and equipment of licensees in connection with their practice;
- (o) prescribing the records that shall be kept respecting patients;
- (p) requiring the payment of annual fees by licensees and fees for licensing, examinations and continuing education, including penalties for late payment, and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (q) prescribing forms and providing for their use;
- (r) providing for the exemption of any licensee from any provision of the regulations under such special circumstances in the public interest as the Board considers advisable.

Regu-
lations
by
Lieutenant
Governor in
Council

(2) Where the Minister requests in writing that the Board make, amend or revoke a regulation under subsection (1) and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. 1974, c. 34, s. 23.

By-laws

25.—(1) The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the Board;
- (b) providing for the execution of documents by the Board;
- (c) respecting banking and finance;
- (d) fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;
- (e) respecting the calling, holding and conducting of meetings of the Board and the duties of members of the Board;
- (f) respecting the calling, holding and conducting of meetings of licensees;
- (g) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (h) delegating to the Executive Committee such powers and duties of the Board as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (i) providing for a code of ethics;
- (j) prescribing forms and providing for their use;
- (k) providing procedures for the making, amending and revoking of the by-laws;
- (l) respecting management of the property of the Board;
- (m) respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;

- (n) providing for the entering into arrangements by the Board for licensees respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by licensees and exempting licensees or any class thereof from all or part of any such levy;
- (o) respecting membership of the Board in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (p) providing for the appointment of inspectors for the purposes of this Act;
- (q) respecting all of the things that are considered necessary for the efficient conduct of the affairs of the Board.

(2) A copy of the by-laws made under subsection (1) and amendments thereto, ^{Distribution of by-laws}

(a) shall be forwarded to the Minister;

(b) shall be forwarded to each licensee; and

(c) shall be available for public inspection in the office of the Board. 1974, c. 34, s. 24.

26.—(1) Where it appears to the Board that any person ^{Restraining orders} does not comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Board may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Divisional Court from an order made ^{Appeal} under subsection (1). 1974, c. 34, s. 25.

27.—(1) Every person who is in contravention of section ^{Penalties} 3 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who, not being a licensee, uses an occupational designation prescribed or prohibited by the regulations to be used by licensees or a like designation is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 22 in the course of his duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000. 1974, c. 34, s. 26.

Service of
notice

28.—(1) Except where otherwise provided, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Administer-
ing oaths

(2) Every member of the Appeal Board and of the Discipline Committee has power to administer oaths and affirmations for the purposes of any of its proceedings. 1974, c. 34, s. 27.

Registrar's
certificate
as evidence

29. Any statement containing information from the records required to be kept by the Registrar under this Act, purporting to be certified by the Registrar under the seal of the Board is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Registrar and without proof of the seal. 1974, c. 34, s. 28.

Immunity
of Appeal
Board and
committees

30. No action or other proceeding for damages shall be instituted against the Appeal Board, the Board, a committee of the Board or any member of the Appeal Board, the Board or committee, or any officers, employees, agents or appointees of the Appeal Board or the Board for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power. 1974, c. 34, s. 29.

Limitation
for
malpractice
actions

31. No licensee is liable to any action arising out of negligence or malpractice in respect of professional services requested or rendered unless such action is commenced

within one year from the date when the person commencing the action knew or ought to have known the fact or facts upon which he alleges negligence or malpractice. 1974, c. 34, s. 30.

32.—(1) Any person who makes or causes to be made any wilful falsification in any matter relating to a register or issues a false licence, certificate or document with respect to registration is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Falsification of certificates

(2) Any person who wilfully procures or attempts to procure himself to be licensed or registered under this Act by knowingly making any false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 and every person knowingly aiding and assisting him therein is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. 1974, c. 34, s. 31. Offences for false representation

33. Where licensing under this Act is required to permit the lawful doing of any act or thing, if in any prosecution it is proven that the accused has done such act or thing, the burden of proving that he was so licensed under this Act rests upon the accused. 1974, c. 34, s. 32. Onus of proof respecting licensing

CHAPTER 116

Deposits Regulation Act

1. In this Act,

Interpre-
tation

- (a) “advertisement” includes any form of advertising in any medium or any act, conduct, communication or negotiation or any display, writing or statement made, done, issued or published to members of the public or in a public place;
- (b) “business premises” does not include any dwelling;
- (c) “Commission” means the Ontario Securities Commission;
- (d) “corporation” means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization, including corporations that do not deal with each other at arm’s length or that would be deemed not to deal with each other at arm’s length under Part XVII of the *Income Tax Act* (Canada).
- (e) “deposit” means a loan of money at interest or at a discount or repayable at a premium in money or otherwise made to any person or corporation one of whose principal businesses is lending money, dealing in mortgages of real or personal property or purchasing accounts receivable, but does not include a loan of money to any corporation in connection with the issue and sale of its bonds, debentures, notes or other written evidences of indebtedness;
- (f) “dwelling” means any premises or any part thereof occupied as living accommodation;
- (g) “members of the public” means any section or segment of the public without regard to the numbers thereof;
- (h) “person” means an individual, partnership, unincorporated association, unincorporated organization and a syndicate other than an incorporated syndicate, including persons who are related persons or who would be deemed to be related persons under Part XVII of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

(i) "regulations" means the regulations made under this Act;

(j) "short term securities" means bonds, debentures or other evidences of indebtedness maturing within 180 days from the date of acquisition thereof and authorized for purchase or investment by registered loan corporations under subsection 178 (1) of the *Loan and Trust Corporations Act*;

R.S.O. 1980,
c. 249

(k) "solicitation of deposits" means any advertisement calculated directly or indirectly to lead to or induce the deposit of money or the investment of money on deposit by members of the public, and any reference to soliciting deposits shall be construed accordingly. R.S.O. 1970, c. 127, s. 1; 1971, c. 50, s. 32 (1).

Application
of Act

2. This Act does not apply to,

1980-81,
c. 40 (Can.)

(a) any bank to which the *Bank Act* (Canada) applies;

R.S.O. 1980,
c. 249

(b) any corporation to which the *Loan and Trust Corporations Act* applies;

R.S.O. 1980,
c. 102

(c) any credit union to which the *Credit Unions and Caisses Populaires Act* applies;

R.S.O. 1980,
c. 221

(d) any issuer within the meaning of the *Investment Contracts Act*;

R.S.O. 1980,
c. 91

(e) any corporation to which the *Co-operative Corporations Act* applies;

R.S.C. 1970,
c. P-14

(f) any post office savings bank established under the *Post Office Act* (Canada);

R.S.O. 1980,
c. 10

(g) the Province of Ontario Savings Office constituted under the *Agricultural Development Finance Act*;

R.S.O. 1980,
c. 218

(h) any insurer to which the *Insurance Act* applies;

R.S.O. 1980,
c. 295

(i) any mortgage broker registered under the *Mortgage Brokers Act*; or

(j) any person or corporation or any class of persons or corporations that is exempted by the regulations. R.S.O. 1970, c. 127, s. 2; 1973, c. 104, s. 1 (2).

Improper
solicitation
of deposits

3. No person or corporation shall solicit deposits in any manner that is false, misleading, deceptive or likely to create an erroneous impression. R.S.O. 1970, c. 127, s. 3.

4.—(1) No advertisement soliciting deposits shall be made, ^{Advertisements for deposits} done, issued or published in any manner whatsoever without such advertisement first having been submitted to the Commission for its review and certification as complying with the provisions of this Act and the regulations, and no such advertisement shall be made, done, issued or published without such certification.

(2) Any person or corporation who, in the ordinary course ^{Exemption for publishers} of business, makes, issues or publishes an advertisement soliciting deposits on the order or direction of another person or corporation, being an advertisement the making, issue or publication of which by such other person or corporation constitutes an offence under this Act, is not guilty of such offence if the matter or material contained in such advertisement was not devised or selected by such person or corporation or under his or its direction or control. R.S.O. 1970, c. 127, s. 4.

5.—(1) Every person or corporation accepting or receiving ^{Security for deposits} deposits from members of the public shall set aside and segregate and hold separate from the other assets of any such person or corporation as security for such deposits cash on hand or deposited in any bank to which the *Bank Act* ^{1980-81, c. 40 (Can.)} (Canada) applies or short term securities in an amount or principal amount aggregating not less than 60 per cent of the aggregate amount of such deposits.

(2) Every person or corporation accepting or receiving ^{Records} deposits from members of the public shall keep records of such deposits and the particulars of the security therefor in the form and content prescribed by the Commission.

(3) Every person or corporation accepting or receiving ^{Returns} deposits from members of the public shall furnish to the Commission a return in the prescribed form on or before the first days of January, April, July and October in each year containing information as to the particulars of the security for such deposits certified by the auditor or accountant of such person or corporation.

(4) Any duly authorized representative of the Commission ^{Inspection} appointed by order of the Commission may at any reasonable time inspect the books, accounts, documents and other records kept by any person or corporation receiving or accepting deposits from members of the public and may require any officer, director or employee of any such person or corporation to furnish such information as the Commission considers necessary for the purpose of ascertaining whether this Act and the regulations have been or are being complied with. R.S.O. 1970, c. 127, s. 5 (1-4).

Powers on
inspection

(5) For purposes relevant to the subject-matter of an investigation under subsection (4), the representative of the Commission may inquire into and examine the affairs of the person or corporation whose affairs are being investigated and may,

- (a) upon production of his authorization from the Commission, enter at any reasonable time the business premises of such person or corporation and examine books, papers, documents and things relevant to the subject-matter of the investigation;
- (b) inquire into,
 - (i) negotiations, investigations, transactions, loans, borrowings and payments to, by, or on behalf of or in relation to or connected with such person or corporation and into any property, assets or things owned, acquired or alienated in whole or in part by such person or corporation or any person or company acting on his or its behalf that are relevant to the subject-matter of the investigation, and
 - (ii) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or corporation and any other person or corporation and the relationship that may at any time exist or have existed between such person or corporation and any other person or corporation by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

Offence

(6) No person shall obstruct a person making an investigation under subsection (4) or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Powers
under
R.S.O. 1980,
c. 411

(7) For the purposes of an investigation under this section, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

(8) Where a justice of the peace is satisfied, upon an *ex parte* ^{Search warrant} application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place, any books, papers, documents or things relating to the person or corporation whose affairs are being investigated, and that relate to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (5) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(9) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (5) (a) or subsection (8) relating to the person or corporation whose affairs are being investigated and that relate to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person or corporation whose affairs are being investigated. ^{Removal of books, etc.}

(10) Any copy made as provided in subsection (9) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. ^{Admissibility of copies}

(11) The Commission may appoint any expert to examine books, papers, documents or things examined under clause (5) (a) or subsection (8). ^{Appointment of experts} 1971, c. 50, s. 32 (2).

6. Every person employed in the administration of this Act, including any person making an investigation or inquiry under this Act, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, investigation or inquiry and shall not communicate any such matters to any other person except, ^{Matters confidential}

(a) as may be required in connection with the administration of this Act and the regulations, or any proceedings under this Act or the regulations; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates. 1971, c. 50, s. 32 (3).

Fees

7. Any advertisement submitted to the Commission for review and certification and every return, record or other information required to be filed with the Commission shall be accompanied by the fee prescribed by the regulations. R.S.O. 1970, c. 127, s. 6.

**Offences.
persons**

8.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both.

**Idem.
corporations**

(2) Every corporation that contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

**Idem.
officers,
etc., of
corporations**

(3) Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in, the commission of the offence is a party to and guilty of the offence and on conviction is liable to the fine or imprisonment or to both provided in subsection (1) whether or not the corporation has been prosecuted or convicted. R.S.O. 1970, c. 127, s. 7.

Regulations

9. The Lieutenant Governor in Council may make regulations,

- (a) exempting persons or corporations or any class thereof from the application of this Act;
- (b) prescribing the requirements with respect to the submission to the Commission, for its review and certification, of advertisements that solicit deposits;
- (c) prescribing the form and content of records of deposits and particulars of the security therefor;
- (d) prescribing the return to be furnished to the Commission by persons or corporations receiving or accepting deposits containing information as to the particulars of security therefor;
- (e) prescribing and providing for fees under this Act. R.S.O. 1970, c. 127, s. 8; 1971, c. 50, s. 32 (4).

CHAPTER 117

Development Corporations Act

1.—(1) In this Act,

Interpre-
tation

(a) “board” means the Board of Directors of Ontario Development Corporation, the Northern Ontario Development Corporation or the Eastern Ontario Development Corporation;

(b) “corporation” means the Ontario Development Corporation, Northern Ontario Development Corporation or Eastern Ontario Development Corporation;

(c) “Eastern Ontario” means the counties of Hastings, Prince Edward, Renfrew, Lennox and Addington, Frontenac, Lanark, Leeds, Grenville, Russell, Dundas, Stormont, Prescott and Glengarry and The Regional Municipality of Ottawa-Carleton;

(d) “industry” includes any trade or other business undertaking of any kind, and “industrial” has a corresponding meaning;

(e) “Minister” means the Minister of Industry and Tourism or such other member of the Executive Council as the Lieutenant Governor in Council designates;

(f) “Northern Ontario” means the districts of Algoma, Cochrane, Manitoulin, Nipissing, Sudbury, Timiskaming, Kenora, Rainy River and Thunder Bay.

(2) The Lieutenant Governor in Council may designate such areas in addition to those described in clauses (1) (c) and (f) as he considers advisable. 1973, c. 84, s. 1.

Designation
of areas

2.—(1) The Corporation known as the Ontario Development Corporation is continued, consisting of not more than sixteen directors appointed by the Lieutenant Governor in Council of whom four shall be appointed from the Board of Directors

Ontario
Development
Corporation
continued

of Eastern Ontario Development Corporation and four shall be appointed from the Board of Directors of Northern Ontario Development Corporation. 1973, c. 84, s. 2 (1); 1973, c. 125, s. 1; 1975 (2nd Sess.), c. 10, s. 1.

Share
capital

(2) The capital of the Ontario Development Corporation is \$7,000,000 divided into 7,000 shares, each having a par value of \$1,000. 1973, c. 84, s. 2 (2).

Northern
Ontario
Development
Corporation
continued

3. The Corporation known as the Northern Ontario Development Corporation is continued as a corporation without share capital consisting of not fewer than five and not more than fourteen directors appointed by the Lieutenant Governor in Council. 1973, c. 84, s. 3; 1975 (2nd Sess.), c. 10, s. 2.

Eastern
Ontario
Development
Corporation
continued

4. The Corporation without share capital known as the Eastern Ontario Development Corporation is continued consisting of not fewer than five and not more than fourteen directors appointed by the Lieutenant Governor in Council. 1973, c. 84, s. 4; 1975 (2nd Sess.), c. 10, s. 3, *revised*.

Creation of
other
corporations

5. The Lieutenant Governor in Council may by regulation constitute corporations with such powers and duties as are considered conducive to the attainment of the objects of the corporation and provide for its constitution and management. 1973, c. 84, s. 5.

Jurisdiction

6.—(1) The Northern Ontario Development Corporation shall carry out the objects of the Corporation in Northern Ontario.

Idem

(2) The Eastern Ontario Development Corporation shall carry out the objects of the Corporation in Eastern Ontario.

Idem

(3) The Ontario Development Corporation shall carry out the objects of the Corporation in Ontario. 1973, c. 84, s. 6.

Seal

7.—(1) Each corporation shall have a seal, which shall be adopted by a resolution or by-law of the corporation.

Fiscal year

(2) The fiscal year of each corporation commences on the 1st day of April in each year and ends on the 31st day of March in the following year.

R.S.O. 1980,
cc. 54, 95
do not apply

(3) The *Business Corporations Act* does not apply to the Ontario Development Corporation and the *Corporations Act* does not apply to the Eastern Ontario Development Corporation or the Northern Ontario Development Corporation. 1973, c. 84, s. 7.

8.—(1) The Lieutenant Governor in Council shall appoint a person to be the chief executive officer of the corporations. Chief executive officer

(2) Where the chief executive officer is not a director or an officer in the public service of Ontario, he shall be paid such remuneration and expense allowance as may from time to time be fixed by the Lieutenant Governor in Council. Remuneration
1975 (2nd Sess.), c. 10, s. 4.

9.—(1) The directors for the time being of each corporation form and are its Board of Directors, and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board. Board of Directors

(2) Each corporation may pay such of its directors as are not officers in the public service of Ontario such remuneration and expense allowance as may from time to time be fixed by the Lieutenant Governor in Council. Remuneration

(3) A quorum of directors for each board shall be such number of directors as the board may designate by by-law. Quorum

(4) The board of each corporation may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the corporation. By-laws

(5) The affairs of each corporation are under the management and control of its board for the time being, and a chairman shall preside at all meetings of the board and, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform all the duties of the chairman. Management
1973, c. 84, s. 9.

10. All rights of the Minister or Her Majesty in right of Ontario under any agreement heretofore entered into by the Minister under *The Economic Development Loans Guarantee Act, 1962-63*, are vested in the Ontario Development Corporation. 1973, c. 84, s. 10. Rights of Minister under agreements to be rights of Ontario Development Corporation 1962-63, c. 40

11. The objects of the corporations are to encourage and assist in the development and diversification of industry in Ontario, including, without limiting the generality of the foregoing, Objects

- (a) the provision of financial assistance by loan, guarantee or purchase of shares or other securities;
- (b) the provision of sites, equipment, premises, facilities and services; and

- (c) the provision of technical, business and financial information, advice, training and guidance to persons or organizations, whether or not incidental to the provision of financial assistance. 1973, c. 84, s. 11.

Powers of
corporations

12.—(1) Notwithstanding any other Act, each corporation for the objects set out in section 11 possesses power to,

- (a) lend money to a person carrying on any industrial undertaking in Ontario where in the opinion of the board the funds in the circumstances are not available elsewhere on reasonable terms;
- (b) guarantee the payment of any loan, or any part thereof, and all or any part of the interest thereon, made by a lender approved by the corporation to a person carrying on any industrial undertaking in Ontario where in the opinion of the board the funds in the circumstances are not available elsewhere on reasonable terms;
- (c) lend money to a person establishing or substantially expanding any industrial undertaking in an area of equalization of industrial opportunity approved under section 6 of the *Ministry of Industry and Tourism Act* and forgive repayment of the loan in whole or in part;
- (d) take security by way of mortgage, charge, hypothecation or assignment of or on any real or personal property or otherwise;
- (e) buy, hold, own, hire, maintain, control, take, lease, sell, assign, exchange, transfer, manage, improve, develop or otherwise deal in and dispose of, either absolutely or by way of security or otherwise, any property real and personal, movable and immovable, and assets generally;
- (f) buy, acquire, accept, and hold, exchange, transfer, assign, sell, dispose of or deal in, either absolutely or by way of security or otherwise, all kinds of bills, notes, negotiable instruments, commercial paper, conditional sale agreements, lien notes, hire purchase agreements, chattel mortgages, bills of lading, bills of sale, warehouse receipts, guarantees, choses in action or instruments of assignment, conveyance, mortgage, pledge, charge or hypothecation, and shares, stocks, bonds, debentures, debenture stocks, securities, obligations, agreements and evidences of debt;

R.S.O. 1980,
c. 282

- (g) do all things that are incidental or conducive to the attainment of the objects of the corporation. 1973, c. 84, s. 12 (1); 1973, c. 125, s. 2.

(2) The powers conferred by clause (1) (c) shall only be exercised with the approval of the Lieutenant Governor in Council and the Lieutenant Governor in Council may, by regulation, require the approval by the Lieutenant Governor in Council of the exercise of all or any of the powers of a corporation conferred by clauses (1) (a) and (b).

Approvals by
Lieutenant
Governor in
Council

(3) In respect of loans made by Northern Ontario Development Corporation or Eastern Ontario Development Corporation under clause (1) (a) or (c), the Ontario Development Corporation shall be deemed to be the creditor.

O.D.C.
deemed
creditor

(4) Where the approval of an area of equalization of industrial opportunity is rescinded, a corporation may proceed to exercise its power under clause (1) (c) in respect of any person whose application has been accepted before the rescission.

Application
of rescission

(5) Every guarantee executed under the seal of a corporation and signed by the Treasurer of Ontario and given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever. 1973, c. 84, s. 12 (2-5).

Validity of
guarantee

(6) Each corporation may, for the objects set out in section 11 and subject to the approval of the Lieutenant Governor in Council, make a loan to a municipality mentioned in subsection (8) carrying on an industrial undertaking in Ontario, subject to such terms and conditions as the Lieutenant Governor in Council approves.

Subsidies

(7) In the exercise of its powers respecting the acquisition, financing, use and development of land in connection with industrial undertakings, each corporation shall comply with any directions from time to time given to it in writing by the Lieutenant Governor in Council or the Minister expressing the policy of the Government of Ontario.

Policy
directions

(8) In this section, "industrial undertaking" includes an undertaking by a city, town, village, township or county or a regional, district or metropolitan municipality to encourage or assist in the development and diversification of industry. 1975 (2nd Sess.), c. 10, s. 5.

Municipalities

13.—(1) In this section,

Interpre-
tation

- (a) "building repairs" means repairs to a building or structure required by reason of damage to the

building or structure caused by high water levels of or the impact of ice on a lake, river or other body of water or by damage to or erosion of the shore of a lake, river or other body of water caused by the elements;

(b) "owner" includes any person holding a licence, concession or contract under which there had been acquired from the Crown any right to be exercised in respect of, or over, or upon lands;

(c) "works" means retaining walls, dykes, breakwaters, groynes, cribs and other structures designed for the rehabilitation or protection, or both, of property on the shores of lakes, rivers or other bodies of water that have been damaged or eroded by the elements, and includes repairs and improvements to existing works.

N.O.D.C. may
lend for works
or building
repairs

(2) The Northern Ontario Development Corporation may lend money to an owner of land in any territory without municipal organization for the purposes of constructing works or building repairs on such terms and conditions as may in writing be agreed upon between the owner and Northern Ontario Development Corporation.

Where works
or repairs on
Crown land

(3) Where money is borrowed to construct works or make building repairs on Crown lands, it shall be deemed to be borrowed in respect of the land or interest of the owner who borrowed the money.

Moneys
repayable
deemed tax

R.S.O. 1980,
c. 399

(4) The money from time to time repayable under the terms of any agreement made under subsection (2) shall be deemed to be tax under the *Provincial Land Tax Act*, and the provisions of that Act as to the collection and recovery of taxes and the proceedings that may be taken in default thereof apply but such money shall not be deemed to be tax for the purpose of any other Act. 1973, c. 84, s. 13.

Borrowing
powers

14.—(1) Subject to the approval of the Lieutenant Governor in Council, a corporation may from time to time borrow or raise by way of loan such sums of money as the corporation considers requisite for any of the purposes of the corporation in any one or more, or partly in one and partly in another, of the following ways,

(a) by issue and sale of debentures, bills or notes of the corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at

such time or times, in such currency or currencies and at such place or places as the corporation may determine; and

- (b) by temporary loans or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the corporation may determine.

(2) The purposes of each corporation, without limiting the generality thereof, include, Purposes of corporations

- (a) the carrying out of the objects of the corporation mentioned in section 11 ;
- (b) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the corporation ;
- (c) the repayment in whole or in part of any advances made by the Province of Ontario to the corporation or of any securities of the corporation issued and delivered to the Treasurer of Ontario in respect of any advances ; and
- (d) the payment of the whole or any part of any obligation, liability or indebtedness of the corporation.

(3) Subject to the approval of the Lieutenant Governor in Council, each corporation may sell any debentures, bills or notes of the corporation either at, or at less or more than, the par value thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security. Sale, etc., of corporations' securities

(4) A recital or declaration in any resolution or minute of a corporation authorizing the issue and sale of debentures, bills or notes of the corporation to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the corporation in the amount authorized is conclusive evidence to that effect. Authori-
zation

(5) Debentures, bills or notes of a corporation shall be sealed with the seal of the corporation and may be signed by the chairman or vice-chairman of the corporation and by the secretary or other officer of the corporation, and any interest coupon that may be attached to any debenture, bill or note of the corporation may be signed by the secretary or other officer of the corporation. Sealing,
signing,
etc.

Mechanical
reproduction
of seal and
signature
authorized

(6) The seals of the corporations may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seals of the corporations when so reproduced have the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the appropriate corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office. 1973, c. 84, s. 14.

Securities
of
corporation
redeemable in
advance

15. Any debenture, bill or note of a corporation may be made redeemable in advance of maturity at such time or times at such price or prices and on such terms and conditions as the corporation may determine at the time of the issue thereof. 1973, c. 84, s. 15.

Lost
debentures

16. Where a debenture, bill or note of a corporation is defaced, lost or destroyed, the board of the corporation may provide for its replacement on such terms and conditions as to evidence and as to indemnity as the board may require. 1973, c. 84, s. 16.

Guarantee
of payment
by Ontario

17.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of Ontario of any debentures, bills or notes issued by or of any temporary loan made to a corporation under the authority of this Act.

Form of
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity
of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever.

Guaranteed
debentures,
etc., to be
indefeasible

(4) Any debenture, bill or note issued by or temporary loan made to a corporation, payment whereof is guaranteed by Ontario under this section, is valid and binding upon the corporation and its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question upon any ground whatsoever. 1973, c. 84, s. 17.

Debentures
lawful
trustee
investments

18. Notwithstanding anything in any other Act, debentures issued by a corporation are at all times a lawful investment for municipal, school and trust funds. 1973, c. 84, s. 18.

19.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

Sale of
corporations'
securities
and of
O.D.C.'s
shares to
Ontario and
provincial
advances to
corporations
authorized

(a) to purchase shares of the Ontario Development Corporation from time to time for an amount equal to their par value;

(b) to purchase any debentures, bills or notes of a corporation; and

(c) to make advances to a corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council considers expedient.

(2) The moneys required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. Idem

(3) The Ontario Development Corporation, with the approval of the Lieutenant Governor in Council, may redeem its own shares from time to time. 1973, c. 84, s. 19. Redemption of O.D.C. shares

20. A corporation may temporarily invest any surplus moneys not immediately required for the objects of the corporation in, Investment of surplus moneys

(a) securities issued by or guaranteed as to principal and interest by the Province of Ontario, any other province of Canada, or Canada;

(b) guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*; R.S.O. 1980, c. 249

(c) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies. 1973, c. 84, s. 20. 1980-81, c. 40 (Can.)

21.—(1) Such officers, clerks and servants may be appointed under the *Public Service Act* as are considered necessary for the proper conduct of the business of the corporations. Officers and employees
R.S.O. 1980, c. 418

(2) Each corporation may engage persons other than those appointed under subsection (1) to provide professional, technical or other assistance to or on behalf of the corporation, and may prescribe the duties and other terms of engagement and, subject to the approval of the Lieutenant Governor in Council, provide for payment of the remuneration and expenses of such persons. 1973, c. 84, s. 21. Professional and other assistance

Moneys for
admini-
stration

22.—(1) The moneys required for the purpose of defraying the administrative expenses of the corporations shall be paid out of the moneys appropriated by the Legislature for the purpose.

Forgivable
loans and
guarantees
Provincial
expenses

(2) The moneys required for the purposes of clauses 12 (1) (b) and (c) shall be paid out of the moneys appropriated therefor by the Legislature. 1973, c. 84, s. 22 (1, 2).

Limitation
of liability

23. No member, officer or employee of a corporation, or other person acting on behalf of the corporation, is personally liable for anything done or omitted in good faith in the exercise or purported exercise of the powers conferred by this Act. 1973, c. 84, s. 23.

Audit

24. The accounts and financial transactions of each corporation shall be audited annually by the Provincial Auditor, and reports of the audit shall be made to the corporation and to the Minister. 1973, c. 84, s. 24.

Annual
report

25.—(1) The corporations shall make to the Minister an annual report of all the loans made and of all the guarantees given for the payment of loans under section 12, setting out the amounts and the terms of the loans and the guarantees together with the names and the addresses of the persons to whom the loans are made or in respect of whom the guarantees are given, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Other
reports

(2) The corporations shall, in addition to making an annual report under subsection (1), make to the Minister such other reports of its affairs and operations as he may require. 1973, c. 84, s. 25.

R.S.O. 1980,
c. 295 does
not apply

26. The *Mortgage Brokers Act* does not apply to a corporation. 1973, c. 84, s. 26.

CHAPTER 118

Developmental Services Act

1. In this Act,

Interpre-
tation

- (*a*) “administrator” means the person who is responsible for the operation and management of a facility;
- (*b*) “attending physician” means the physician to whom responsibility for the observation, care and treatment of a resident has been assigned;
- (*c*) “developmental handicap” means a condition of mental impairment present or occurring during a person's formative years, that is associated with limitations in adaptive behaviour;
- (*d*) “Director” means a person appointed as such, for all or any of the purposes of this Act;
- (*e*) “facility” means any place designated by the regulations in which assistance and services or either of them are provided for persons with a developmental handicap;
- (*f*) “Minister” means the Minister of Community and Social Services;
- (*g*) “Ministry” means the Ministry of Community and Social Services;
- (*h*) “physician” means a legally qualified medical practitioner;
- (*i*) “regulations” means the regulations made under this Act; and
- (*j*) “resident” means a person with a developmental handicap who resides in a facility. 1974, c. 2, s. 1.

Facilities
established

2.—(1) The Minister may establish, operate and maintain one or more facilities and may furnish such services and assistance as he considers necessary upon such terms and conditions as he sees fit.

Purchase of
assistance
and services

(2) The Minister may by written agreement or otherwise purchase from any person, services and assistance for or on behalf of persons with a developmental handicap or believed to have a developmental handicap and may direct payment of expenditures as are necessary for these purposes. 1974, c. 2, s. 2.

Administra-
tion vested in
Director

3.—(1) Except where a board has been appointed under subsection (2), the administration of every facility established, or operated by the Minister, is vested in the Director.

Board of
governors
appointed

(2) The Lieutenant Governor in Council may appoint a board of governors to maintain and operate any facility operated and maintained under subsection 2 (1), and every such board is a body corporate.

R.S.O. 1980,
c. 95
not to apply

(3) The *Corporations Act* does not apply to a board appointed under subsection (2).

Administra-
tor to
superintend

(4) Subject to subsection (1), the administrator shall superintend the operation and management of all the affairs of the facility for which he is appointed and shall supervise all officers, clerks, employees and all the residents therein.

Minister,
Director or
administra-
tor may
appoint
persons

(5) Where this Act or the regulations require or authorize the Minister, Director or administrator to do any act, such act may be done by any person whom the Minister, Director or administrator, as the case may be, appoints. 1974, c. 2, s. 3.

Patients
deemed
discharged

R.S.O. 1980,
c. 262

4.—(1) Every person with a developmental handicap who on the 1st day of April, 1974 resided in a psychiatric facility under the regulations to the *Mental Health Act* shall, upon the designating of all or any part of the psychiatric facility as a facility under this Act, be deemed to have been discharged as a patient under the provisions of the *Mental Health Act* and admitted as a resident pursuant to the provisions of this Act.

Certificate
of incom-
petence
deemed
issued and
received

(2) Where the Public Trustee was committee of the estate of a person who is deemed to have been discharged under subsection (1), a certificate of incompetence shall be deemed to have been issued under subsection 10 (3) and received by the Public Trustee. 1974, c. 2, s. 4.

5. Any premises or part or parts thereof which were designated as a psychiatric facility under the regulations to the *Mental Health Act*, and which were operated by the Minister of Health shall, upon being designated as a facility under this Act, be operated and maintained by the Minister and the administration thereof shall, subject to subsection 3 (2), vest in the Director. 1974, c. 2, s. 5.

Designated facilities vest in Director R.S.O. 1980, c. 262

6. Where a facility was incorporated under another Act and is designated under this Act, the designation shall not be deemed to affect the continuation of the facility's status as a corporation. 1974, c. 2, s. 6.

Corporate status continued

7. Any person who,

- (a) believes he is a person with a developmental handicap; or
- (b) wishes to apply on behalf of a person whom he believes is a person with a developmental handicap,

Persons may apply for admission to facilities

may apply for admission to a facility or for any item of assistance or service which the Minister may make available to persons with a developmental handicap. 1974, c. 2, s. 7.

8.—(1) No action, prosecution or other proceeding for damages for anything done or omitted to be done in compliance or intended compliance with this Act or the regulations shall be commenced against the Director, a Board appointed under subsection 3 (2) or any officer or employee of a facility for any act done in good faith in the execution or intended execution of his or its duty or for any alleged neglect or default in the execution in good faith of his or its duty.

Protection from personal liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1974, c. 2, s. 8.

Crown not relieved of liability R.S.O. 1980, c. 393

9. No action lies against the Director or any officer or employee of a facility for any tort of any resident. 1974, c. 2, s. 9.

Protection from tort liability re resident

10.—(1) Forthwith upon the admission of a resident to a facility, he shall be examined by a physician to determine whether he is competent to manage his estate.

Examination as to competency upon admission

- Idem,
at any time** (2) The attending physician may examine a resident at any time to determine whether he is competent to manage his estate.
- Certificate
of in-
competence** (3) If, after an examination under subsection (1) or (2), the examining physician is of the opinion that the resident is not competent to manage his estate, he shall issue a certificate of incompetence in the prescribed form and the administrator shall forward the certificate to the Public Trustee.
- Idem,
exceptional
circum-
stances** (4) Where circumstances are such that the Public Trustee should immediately assume management of an estate, the administrator shall notify the Public Trustee forthwith that a certificate of incompetence has been issued.
- Appointment
by resident** (5) Notwithstanding that no certificate of incompetence has been issued in his case, a resident may, at any time, in writing signed and sealed by him, appoint the Public Trustee as committee of his estate while he is a resident in a facility, and any such appointment may be revoked by the resident at any time in writing signed and sealed by him.
- Where Public
Trustee is
committee
at time of
admission
of resident** (6) Where the Public Trustee is committee of a person with a developmental handicap or believed to have a developmental handicap at the time of his admission to a facility, a certificate of incompetence shall be deemed to have been issued and forwarded to the Public Trustee under subsection (3).
- Where section
does not apply
R.S.O. 1980,
c. 264** (7) This section does not apply to a resident whose estate is under committeehip under the *Mental Incompetency Act*, 1974, c. 2, s. 10.
- Where Public
Trustee may
replace
committee
appointed
under
R.S.O. 1980,
c. 264** **11.**—(1) Notwithstanding that under the *Mental Incompetency Act* a person other than the Public Trustee has been appointed as the committee of the estate of a resident, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the stead of the person appointed under that Act, and on appointment the Public Trustee has and may exercise all the rights and powers conferred upon him by this Act with regard to the management of estates.
- Duty of
Public
Trustee
where
committee
appointed
under
R.S.O. 1980,
c. 264** (2) If at any time a committee of the estate of a resident is appointed under the *Mental Incompetency Act*, the Public Trustee thereupon ceases to be committee and shall account for and transfer to the committee so appointed the estate of the resident that has come into his hands.
- Consent of
Public
Trustee
to order** (3) An order shall not be made under the *Mental Incompetency Act* for the appointment of a committee of a resident

without the consent of the Public Trustee unless seven days notice of the application has been given to him.

(4) The acts of the Public Trustee while committee of a resident are not rendered invalid by the making of an order appointing another committee. 1974, c. 2, s. 11.

Acts of
Public
Trustee not
affected

12. The Public Trustee is committee of the estate of a resident and shall assume management thereof,

Where
Public
Trustee
committee

- (a) upon receipt of a certificate of incompetence;
- (b) upon receipt of notice under subsection 10 (4); or
- (c) upon receipt of an appointment under subsection 10 (5). 1974, c. 2, s. 12.

13. Upon the Public Trustee becoming committee of the estate of a resident, the administrator shall forthwith forward a statement of the financial affairs of the resident to the Public Trustee. 1974, c. 2, s. 13.

Financial
statement

14. The attending physician may, after examining a resident for that purpose, cancel the resident's certificate of incompetence, and in such case the administrator shall forward a notice of cancellation in the prescribed form to the Public Trustee. 1974, c. 2, s. 14.

Cancellation
of certificate
of in-
competence

15.—(1) A resident who is about to be discharged from a facility and whose estate is being managed by the Public Trustee shall be examined by his attending physician to determine whether or not he will, upon discharge, be competent to manage his estate.

Examination
as to
competency
before
discharge

(2) Where the attending physician is of the opinion, after the examination referred to in subsection (1), that the resident will not, upon discharge, be competent to manage his estate, he shall issue a notice of continuance in the prescribed form and the administrator shall forward the notice to the Public Trustee. 1974, c. 2, s. 15.

Notice of
continuance

16. The Public Trustee ceases to be committee of the estate of a resident and shall relinquish management thereof,

Where
Public
Trustee
ceases to be
committee

- (a) upon receipt of notice of cancellation of the certificate of incompetence of the resident;
- (b) upon receipt of a revocation in writing, signed and sealed by the resident, of an appointment referred to in subsection 10 (5);

(c) upon receipt of notice of discharge of the resident, unless he has at that time received a notice of continuance; or

(d) upon the expiration of three months after the resident's discharge, where a notice of continuance was received. 1974, c. 2, s. 16.

Application
to county or
district court
as to
competency

17.—(1) Where a certificate of incompetence or a notice of continuance has been issued, the resident or any person acting on his behalf, may apply to the county or district court of the county or district in which the resident resides at the time of the application for a review of the decision.

Application
by origina-
ting notice
of motion

(2) The application shall be made by originating notice of motion.

Service and
practice

(3) The notice of motion shall be served upon,

(a) the Minister; and

(b) the administrator of the facility in which the resident resides,

and the practice and procedure of the court pertaining to applications by originating notice of motion applies, so far as it is applicable, to an application under this section, except as otherwise provided by this section.

Further
evidence

(4) In addition to the evidence adduced by affidavit, the court may direct such further evidence to be given as it considers necessary.

Court may
affirm or
rescind
decision

(5) On a review under this section, the court may affirm the decision of the person issuing the certificate of incompetence or may rescind it or refer the matter back to the administrator to be disposed of in accordance with such directions as the court considers proper under this Act and the regulations, and the administrator shall give effect to any direction given by the court under this section. 1974, c. 2, s. 17.

Leave of
judge to bring
action

18. No person, other than the Public Trustee, shall bring an action as next friend of a person of whose estate the Public Trustee is committee under this Act without the leave of a judge of the court in which the action is intended to be brought, and the Public Trustee shall be served with notice of the application for such leave. 1974, c. 2, s. 18.

Service of
documents

19. When an action or proceeding is brought or taken against a resident in a facility for whom a committee has not been appointed by the court and such action or proceeding

is in connection with the estate of such person, the writ or other document by which the proceedings are commenced and any other document requiring personal service shall be served upon the Public Trustee endorsed with a written statement of the name of the facility in which the resident is located, and shall also be served upon the resident, unless in the opinion of the attending physician personal service upon the resident would cause serious harm to him by reason of his developmental handicap, in which case it shall also be served upon the administrator. 1974, c. 2, s. 19.

20. The Public Trustee as committee of a resident has and may exercise all the rights and powers with regard to the estate of the resident that the resident would have if of full age and of sound and disposing mind. 1974, c. 2, s. 20.

Rights and powers of Public Trustee as committee

21. A person of whose estate the Public Trustee is committee under this Act and his heirs, executors, administrators, next of kin, legatees, devisees and assigns shall have the same interest in any money or other property, real or personal, arising from a sale, mortgage, exchange or other disposition by the Public Trustee acting as such committee as they would have had in the property the subject of the sale, mortgage, exchange or other disposition if no sale, mortgage, exchange or other disposition had been made, and the surplus money or property shall be of the same nature as the property sold, mortgaged, exchanged or disposed of. 1974, c. 2, s. 21.

Nature of proceeds of sale, etc.

22. Upon the Public Trustee becoming committee of the estate of a person under this Act, every power of attorney of such person is void. 1974, c. 2, s. 22.

When powers of attorney void

23. Any recital in a lease, mortgage or conveyance that a person is a resident in a facility and that the Public Trustee is his committee is admissible in evidence as *prima facie* proof of the facts recited. 1974, c. 2, s. 23.

Recitals in documents

24. The powers conferred upon the Public Trustee as committee of the estate of a resident may be exercised,

Purposes for which powers of Public Trustee may be exercised

- (a) until the committee ship is terminated notwithstanding that the resident has been discharged from the facility;
- (b) to carry out and complete any transaction entered into by the resident before he became a resident in a facility;
- (c) to carry out and complete any transaction entered into by the committee notwithstanding that the

committeeship has been terminated or that the resident has died after the transaction was commenced. 1974, c. 2, s. 24.

Lien of
Public
Trustee for
costs, etc.

25.—(1) The costs, charges and expenses of the Public Trustee, including the costs, charges and expenses of or arising from or out of the passing of his accounts, whether before or after the termination of the committeeship or the death of the person of whose estate he is committee under this Act, and any moneys advanced or liability incurred by him for or on behalf of such person or for the maintenance of such person's family are a lien upon the real and personal property of such person.

Notice of
lien in case
of real
property

(2) In the case of real property, the Public Trustee may register in the proper land registry office a certificate under his hand and seal of office giving notice of the lien claimed and the real property against which it is claimed.

Withholding
of moneys to
secure costs

(3) Where the Public Trustee is proceeding to have his accounts passed after the termination of the committee-ship or the death of a person referred to in subsection (1), the Public Trustee may withhold sufficient moneys from the person's estate to adequately secure the costs of or arising from or out of the passing of such accounts. 1974, c. 2, s. 25.

When gifts,
etc., deemed
fraudulent

26. Every gift, grant, alienation, conveyance or transfer of property made by a person who is or becomes a resident shall be deemed to be fraudulent and void as against the Public Trustee if the same was not made for full and valuable consideration actually paid or sufficiently secured to such person or if the purchaser or transferee had notice of his mental incompetence. 1974, c. 2, s. 26.

Death of
resident

27. Upon the death of a resident and until letters probate of the will or letters of administration of the estate of the resident are granted to a person other than the Public Trustee and notice thereof is given to the Public Trustee, the Public Trustee may continue to manage the estate and exercise with respect thereto the powers that an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue. 1974, c. 2, s. 27.

Passing of
accounts

28. The Public Trustee is liable to render an account as to the manner in which he has managed the property of the resident in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and is entitled from time to time to bring in

and pass his accounts and tax costs in like manner as a trustee but is personally liable only for wilful misconduct. 1974, c. 2, s. 28.

29. For the services rendered by the Public Trustee as committee of a resident, he may be allowed compensation not exceeding the amount that a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation. 1974, c. 2, s. 29.

30.—(1) Where a person, with respect to whom a notice of continuance has been received by the Public Trustee, may not, based upon a report of the attending physician or other evidence available to the Public Trustee, be competent to manage his estate upon the termination of the committee-ship or a person discharged has refused or neglected to take his property or any part thereof from the Public Trustee, the Public Trustee may apply to the Supreme Court for directions as to the disposal of such property, and the court may make such order as it considers just, and may in its discretion order that the Public Trustee continue to manage the estate of such person with all the rights and powers that the Public Trustee would have had under this Act if the committee-ship had not been terminated.

(2) Where the Public Trustee continues to manage an estate under subsection (1), the Supreme Court may, upon application, make such further order as it considers just and may, in its discretion, order that the management of the estate by the Public Trustee be relinquished. 1974, c. 2, s. 30.

31. The Public Trustee shall, out of the money in his hands belonging to a resident for whom he is committee, pay the proper charges for his maintenance in the facility in which he is a resident, and he may also pay such sums as he considers advisable to the resident's family or other persons dependent upon him, and the payments for the maintenance of the family and other dependants may be made notwithstanding that such payments may prevent the payment of maintenance that otherwise would be due from the resident. 1974, c. 2, s. 31.

32. If there is any money in court to the credit of a resident, it shall be paid out to the Public Trustee upon his written application, and it is not necessary to obtain an order of the court or a judge for such purpose. 1974, c. 2, s. 32.

What
Public
Trustee
not required
to do

33. Nothing in this Act makes it the duty of the Public Trustee to institute proceedings on behalf of a resident or to intervene in respect of his estate or any part thereof or to take charge of any of his property. 1974, c. 2, s. 33.

Patients
in another
province with
estate in
Ontario

34.—(1) Where a person who is suffering from a developmental handicap resides in another province or territory of Canada and has estate situate in Ontario, the Lieutenant Governor in Council may appoint the official of the other province or territory who is charged with the duty of managing the estate of such person in the other province or territory to be committee of the estate in Ontario.

Order
conclusive

(2) The order making the appointment is conclusive proof that all the conditions precedent to the appointment have been fulfilled.

Rights and
powers of
appointee

(3) The appointee under such an order possesses the same rights, powers, privileges and immunities as are conferred by this Act upon the Public Trustee and he is subject to the same obligations and shall perform the same duties. 1974, c. 2, s. 34.

Minister may
designate
officers

35.—(1) The Minister may appoint officers of the Ministry or other persons who shall advise and assist the administrator in all matters pertaining to persons with a developmental handicap and who shall have such other duties as are assigned to them by this Act or the regulations.

Powers

(2) Any such officer or person may at any time, and shall be permitted so to do by the authorities thereat, visit and inspect any facility and, in so doing, may interview residents, examine books, records and other documents relating to residents, examine the condition of the facility and its equipment, inquire into the adequacy of its staff, the range of services provided and any other matter considered relevant to the care of residents by such officer or person.

Inspection

(3) The books of account and any other records of every facility or class of facility shall be open at all reasonable times for inspection by an officer or person appointed under subsection (1). 1974, c. 2, s. 35.

Provincial
aid

36. The Minister may direct payment of provincial aid to or for the benefit of persons with a developmental handicap, or believed to have a developmental handicap, or to or for any facility or class of facility in which a person with a developmental handicap resides, in such amounts and under such conditions as are prescribed by the regulations. 1974, c. 2, s. 36.

37. The moneys required for the purposes of this Act ^{Moneys} shall be paid out of moneys that are appropriated therefor by the Legislature. 1974, c. 2, s. 37.

38. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) designating facilities or classes of facilities to which this Act and the regulations apply and limiting, restricting or exempting any such facility or class of facility from the application of any part of the regulations;
- (b) respecting the construction, renovation, alteration and maintenance of any facility or class of facility;
- (c) respecting the management, conduct, operation, use and control of any facility or class of facility;
- (d) prescribing the accommodation, facilities, equipment and services in any facility or class of facility;
- (e) providing for the officers and staff and prescribing their duties and qualifications in any facility or class of facility;
- (f) prescribing the procedure for selecting and evaluating the site of any facility or class of facility and for the development and preparation of plans for the site and buildings and for the information to be contained in such plans;
- (g) providing for the approval of facilities within a class and prescribing the terms and conditions upon which any such facility may be approved for persons with a developmental handicap;
- (h) for the purposes of this Act and the regulations, defining "assistance" and "services" and prescribing classes of services and classes of assistance and the items, services and payments to be included in any such definition or in any such class of services or class of assistance and prescribing the terms and conditions upon which such services or assistance or any class thereof may be provided;
- (i) prescribing the classes of grants or allowances by way of provincial aid to or for the benefit of persons with a developmental handicap or believed to have a developmental handicap, or to or for

any facility or class of facility and the methods of determining the amounts of such grants or allowances, the terms and conditions for the payment thereof and providing for the manner, times and methods of payment and the suspension and withholding of grants and allowances and for the making of deductions from grants and allowances;

- (j) prescribing the persons or classes of persons who may be eligible for services and assistance or any class thereof and prescribing the terms and conditions of eligibility for services and assistance or any classes thereof requiring information to be submitted and providing for the investigation and determination of eligibility for such services or assistance or any classes thereof;
- (k) prescribing the charges that shall be made for the provision of services and assistance or any class thereof to a person with a developmental handicap or believed to have a developmental handicap and limiting, restricting or exempting the persons or any class of persons to whom such charges shall be made;
- (l) prescribing the persons and authorities or classes of persons or authorities that are liable for or exempted from the cost of services and assistance or any class of services or assistance to persons with a developmental handicap or believed to have a developmental handicap and prescribing rules for determining the amounts to be contributed towards the cost of such services or assistance or class thereof by the person or authority or class of person or authority who are liable therefor;
- (m) providing for the recovery of any sum as a debt due to the Crown or to the board of any facility in any court of competent jurisdiction from any person or his estate or authority liable therefor, of the cost or any part of the cost of any services or assistance or any class thereof provided to or for a person with a developmental handicap or believed to have a developmental handicap;
- (n) providing for an agreement to be entered into with or on behalf of any resident or class of resident in a facility or in any class of facility, for the administrator in charge of the facility or class of facility, to receive, hold and administer real and personal property of the resident or class

of resident in trust for certain purposes, and providing for the terms and conditions of trust upon which the administrator may receive and hold such property;

- (o) providing for the establishment of in-service training programs for members of the staff of any facility or class of facility;
- (p) providing for any parent or guardian of a child with a developmental handicap or believed to have a developmental handicap to enter into agreement with the Minister or any child welfare authority appointed by the Minister, for the purposes of providing services or assistance or any class thereof, and providing for the terms and conditions in any such agreement upon which such services or assistance or any class thereof may be provided;
- (q) governing applications for payment of grants or allowances under this Act;
- (r) prescribing the records and accounts to be kept in respect of facilities or class of facilities, the claims and returns to be made to the Minister and the method, time and manner in which such claims and returns are to be made;
- (s) prescribing additional duties of officers or persons appointed by the Minister under section 35;
- (t) respecting the examination of persons and the admission, transfer, discharge and placement of residents;
- (u) prescribing rules governing the operation, management functions and powers of boards appointed by the Lieutenant Governor in Council under subsection 3 (2); and
- (v) prescribing forms and providing for their use. 1974, c. 2, s. 38.

CHAPTER 119

Discriminatory Business Practices Act

1. In this Act,

Interpre-
tation

- (a) "designated information" means information as to the race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of a person;
- (b) "Director" means the Director under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980,
c. 274
- (c) "Minister" means the Minister of Consumer and Commercial Relations;
- (d) "person" includes a partnership, sole proprietorship, unincorporated association and governmental agency;
- (e) "person connected", when used in relation to another person, means an employee, agent, partner or associate of the other person and, where the other person is a corporation, includes a director, officer, shareholder or member of the corporation;
- (f) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. 1978, c. 60, s. 1.

2. The purpose and intent of this Act is to prevent discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of persons employed in or engaging in business. 1978, c. 60, s. 2.

3. This Act does not apply to:

Where Act
does not
apply

- 1. The withholding of services or employment in the course of a lawful strike, lock-out or other labour dispute.
- 2. A discriminatory business practice engaged in in accordance with a policy of the Government of

Canada directed toward trade with a country other than Canada or persons in a country other than Canada or of the Government of Ontario directed toward persons in Provinces or Territories other than Ontario. 1978, c. 60, s. 3.

Discrimin-
atory
business
practices

4.—(1) For the purposes of this Act, the following shall be deemed to be discriminatory business practices:

1. A refusal to engage in business with a second person, where the refusal,

(a) is on account of an attribute,

(i) of the second person, or

(ii) of a third person with whom the second person conducts, has conducted or may conduct business; and

(b) is a condition of the engaging in business of the person making the refusal and another person.

2. A refusal or failure to employ, appoint or promote a second person or a dismissal or suspension of a second person from employment, where the refusal, failure, dismissal or suspension,

(a) is on account of an attribute,

(i) of the second person, or

(ii) of a third person with whom the second person conducts, has conducted or may conduct business; and

(b) is a condition of the engaging in business of the person making the refusal, failure, suspension or dismissal and another person.

3. Entering into a contract that includes a provision that one of the parties to the contract,

(a) will refuse to engage in business with a second person; or

(b) will refuse or fail to employ or promote or will dismiss or suspend from employment a second person,

on account of an attribute of the second person or of a third person with whom the second person conducts, has conducted or may conduct business.

(2) In subsection (1),

Interpre-
tation

(a) “attribute”, with reference to a person, means the race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of the person, and includes the race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of a person connected with the person or of nationals of a country with the government of which the person conducts, has conducted or may conduct business;

(b) “engaging in business” includes selling goods or services to or buying goods or services from, and “engage in business” has a corresponding meaning;

(c) “refusal” includes agreement to refuse. 1978, c. 60, s. 4.

5.—(1) No person in Ontario shall engage in a discriminatory business practice.

Discrimin-
atory
business
practices
prohibited

(2) No person shall seek or agree to seek from a second person and no person shall provide or agree to provide to a second person any designated information in respect of any person for the purpose of engaging in or assisting in engaging in a discriminatory business practice as defined in section 4.

Seeking or
providing
designated
information
for discrimin-
atory
business
practice

(3) Where designated information is sought or agreed to be sought from a second person or is provided or agreed to be provided to a second person, the designated information shall be deemed to be sought, agreed to be sought or to be provided or agreed to be provided, as the case may be, for the purpose of engaging in or assisting in engaging in a discriminatory business practice unless the person that so acted establishes that it is sought, agreed to be sought or is provided or agreed to be provided for another purpose.

Idem

(4) No person in Ontario shall seek or provide a statement, whether written or oral, to the effect that any goods or services supplied or rendered by any person or government do not originate in whole or in part in a specific location, territory or country for the purpose of engaging in or assisting in engaging in a discriminatory business practice as defined in section 4, but this subsection does not prohibit a person in Ontario from seeking or providing a statement, whether written or oral, to the effect that any goods or services supplied or rendered by any person or government originate in whole or in part in a specific location, territory or country.

Negative
statements
of origin
prohibited

Seeking or
providing
information
for discrimin-
atory
business
practice

(5) No person in Ontario shall seek or provide information, whether written or oral, for the purpose of engaging in a discriminatory business practice, as to whether or not the person or any other person is a member of or has made contributions to or is otherwise associated with or involved in the activities of a charitable, fraternal or service organization.

Idem

(6) Where information specified in subsection (5) is sought from a person or is provided by a person to another person in response to a request, the information shall be deemed to be sought or provided, as the case may be, for the purpose of engaging in a discriminatory business practice unless the person that so acted establishes that it is sought or provided for another purpose.

One act
deemed
practice

(7) A person who performs one act referred to in section 4 shall be deemed to be engaging in a discriminatory business practice.

Report to
Director

(8) Every person who receives a request, whether oral or in writing, to engage in a discriminatory business practice or to do an act that would be a contravention of subsection (2), (4) or (5) shall report the request and the response to the request within thirty days to the Director and shall provide the Director with such other information in respect of the request as the Director may require. 1978, c. 60, s. 5.

Order to
cease dis-
criminatory
business
practice or
contravention
of s. 5

6.—(1) Where the Director has reason to believe that a person is engaging or has engaged in a discriminatory business practice or is contravening or has contravened subsection 5 (2), (4), (5) or (8), the Director may order the person to comply with section 5 in respect of the discriminatory business practice or the contravention specified in the order.

Application
of
R.S.O. 1980,
c. 55

(2) Where the Director proposes to make an order under subsection (1), subsection 6 (2) to (7) of the *Business Practices Act* apply with necessary modifications.

Order for
immediate
compliance

(3) Notwithstanding subsection (2), the Director may make an order under subsection (1) to take effect immediately where, in his opinion, to do so is necessary for the protection of the public or of any person and in such case subsections 7 (2) to (5) of the *Business Practices Act* apply with necessary modifications and, subject to subsections 7 (3) and (4) of the Act, the order takes effect immediately.

Stay
R.S.O. 1980,
c. 274

(4) Notwithstanding that, under section 11 of the *Ministry of Consumer and Commercial Relations Act*, an appeal is taken from

an order of the Tribunal made under this section, the order takes effect immediately, but the Tribunal may grant a stay until the disposition of the appeal. 1978, c. 60, s. 6.

7.—(1) Any person against whom the Director proposes to make an order to comply with section 5 may enter into a written assurance of voluntary compliance in a form that the Director may prescribe undertaking not to engage in the specified discriminatory business practice or other contravention of section 5 after the date thereof.

Assurance of
voluntary
compliance

(2) Where an assurance of voluntary compliance is accepted by the Director or an order is made by the Director with the consent of each person to be named in the order, the assurance or consent order has and shall be given for all purposes of this Act the force and effect, other than the disqualification provided by subsection 10 (1), of an order made by the Director.

Assurance
or consent
order
deemed
order

(3) An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director.

Under-
takings

(4) The Director,

Duties of
Director

(a) shall receive and act on or mediate complaints respecting discriminatory business practices and other contraventions of section 5; and

(b) shall maintain available for public inspection a record of,

(i) assurances of voluntary compliance entered into under this Act, and

(ii) orders made under this Act, other than orders in respect of which hearings or appeals are pending, to cease engaging in discriminatory business practices or other contraventions of section 5. 1978, c. 60, s. 7.

8. Where, upon a statement made under oath, the Director has reason to believe that a person is contravening or is about to contravene any provision of this Act or an order or assurance of voluntary compliance made or given under this Act, the Director may by order appoint one or more

Investigation
by Director

R.S.O. 1980,
c. 55

persons to make an investigation as to whether or not such a contravention has occurred or is about to occur and the person or persons appointed shall report the result of the investigation to the Director and subsections 11 (2) to (8) of the *Business Practices Act* apply with necessary modifications. 1978, c. 60, s. 8.

Right to
compensation

9.—(1) A person that incurs loss or damage as a result of an act that is a contravention of this Act has the right to compensation for the loss or damage and to punitive or exemplary damages from the person who committed the contravention.

Enforcement
of right

(2) The right to compensation mentioned in subsection (1) may be enforced by action in a court of competent jurisdiction. 1978, c. 60, s. 9.

Disquali-
fication of
person
supporting
boycott

10.—(1) Every person against whom an order is made under section 6 or 11 or who is convicted of an offence under clause 16 (1) (d) or (e) is ineligible to enter into a contract to provide goods or service to the Crown or any agency of the Crown for a period of five years from the date of the making of the order or of the conviction, as the case may be.

Contractual
provision

(2) A provision in a contract that provides for a matter that is a discriminatory business practice is a nullity and is severable from the contract. 1978, c. 60, s. 10.

Proceedings
to prohibit
continuation
or repetition
of contra-
vention

11.—(1) Where any provision of this Act is contravened, notwithstanding any other remedy or any penalty, the Minister or any person who complains of injury due to the contravention may apply to a judge of the Supreme Court by originating motion for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the judge, will result or is likely to result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Variation
or rescission
of order

(2) A person against whom an order has been made under subsection (1) may apply to a judge of the Supreme Court for an order varying or rescinding the order made under subsection (1). 1978, c. 60, s. 11.

Service of
notice

12. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is

to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date. 1978, c. 60, s. 12.

13. Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 8, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Act or any proceeding under or in accordance with this Act;
- (b) to his counsel or to the court in any proceeding under or in accordance with this Act;
- (c) to inform the person involved of a discriminatory business practice and of any information relevant to the person's rights under this Act; or
- (d) with the consent of the person to whom the information relates. 1978, c. 60, s. 13.

14. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1978, c. 60, s. 14.

Certificate
of Director
as evidence

15.—(1) The Lieutenant Governor in Council may make regulations exempting any person or class of persons from any provision of this Act.

Regulations

(2) A regulation made under subsection (1) shall be tabled in the Assembly as soon as practicable after the day on which it comes into force if the Assembly is in session or, if not, at the commencement of the next ensuing session. 1978, c. 60, s. 15.

Tabling in
Assembly

16.—(1) Every person who, knowingly,

Offences

- (a) furnishes false information in an investigation under this Act;

(b) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act;

(c) obstructs a person making an investigation under section 8;

(d) contravenes any provision of subsection 5 (2), (4), (5) or (8); or

(e) contravenes any provision of section 13,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Corporation

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

Directors
and
officers

(3) Where a corporation has been convicted of an offence under subsection (1) or (2),

(a) each director of the corporation; and

(b) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

Limitation
period

(4) No proceeding under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1978, c. 60, s. 16.

Annual
report

17. The Director shall report annually to the Minister on the enforcement of this Act and on such other matters related to this Act as the Director considers advisable or the Minister may require, and the report shall set out,

(a) the names of all persons who entered into assurances of voluntary compliance under this Act in the year with the Director;

(b) the names of all persons against whom orders, other than orders in respect of which hearings or appeals are pending, have been made under this Act in the year to cease engaging in discriminatory business practices or other contraventions of section 5;

- (c) the number of complaints received by the Director in the year respecting discriminatory business practices and other contraventions of section 5, together with,
 - (i) the number of complaints mediated and the results of the mediations, and
 - (ii) the number of complaints acted on and the action taken;
- (d) the number and nature of the requests and responses reported to the Director in accordance with subsection 5 (8) in the year, the action taken thereon and the results of the action taken; and
- (e) the names of all persons convicted of offences under this Act in the year, including the offence for which each was convicted and, in each case, the penalty imposed,

and the Minister shall lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1978, c. 60, s. 17.

CHAPTER 120

Disorderly Houses Act

1. In this Act,

Interpre-
tation

- (a) “court” means the county or district court of the county or district in which a place is situate;
- (b) “place” includes a house, building, office, room or other premises or any part thereof, whether enclosed or not, and whether used permanently or temporarily, and whether there is or is not exclusive right of user. R.S.O. 1970, c. 130, s. 1.

2.—(1) Upon the application by originating notice of motion of the Attorney General or any other person, the court may make an order closing any place with respect to which a conviction has been made within the preceding three months under section 185, 186 or 193 of the *Criminal Code* (Canada) against its use for all or any purposes for any period not exceeding one year. R.S.O. 1970, c. 130, s. 2 (1); 1972, c. 1, s. 9 (7).

Closing
order

R.S.C. 1970,
c. C-34

(2) Notice of the motion shall be served upon the registered owner and the lessee, tenant or other occupant of such place if they can be found within the county or district, and, if they cannot so be found, service may be made by delivering a copy of the notice to an inmate of such place apparently not under sixteen years of age, or in such other manner as the court directs.

Service of
notice

(3) A copy of the conviction under the hand of a provincial judge or clerk of the peace is admissible in evidence as *prima facie* proof of the conviction and that the place therein described was the place with respect to which the conviction took place and of the date thereof.

Proof of
conviction

(4) An order made under this section does not affect the rights of any person in the place described therein acquired after the making of such order without notice, in good faith and for valuable consideration. R.S.O. 1970, c. 130, s. 2 (2-4).

Rights of
innocent
purchaser

3.—(1) Upon the application by originating notice of motion of the registered owner or other person having an interest in a place that is closed pursuant to an order made under section 2 and upon his establishing his good faith and

Suspensory
order

his ignorance of the unlawful use to which the place was put and upon his furnishing a cash bond in the sum of \$1,000, or such greater sum as the court may determine, to be deposited in court as security that the place will not be used during the term of the order for any purpose contrary to section 185, 186 or 193 of the *Criminal Code* (Canada), the court may make an order suspending the operation of the order that closed the place. R.S.O. 1970, c. 130, s. 3 (1).

Service
of notice

(2) Notice of the motion shall be served upon the Attorney General and upon the Crown attorney of the county or district in which the place is situate. R.S.O. 1970, c. 130, s. 3 (2); 1972, c. 1, s. 9 (7).

Further
conviction

(3) Upon the conviction of any person for an offence against either of the sections mentioned in subsection (1) with respect to such place after the giving of such security, the court may upon summary application order the forfeiture of the bond and the payment to the Crown of the money deposited thereunder, and such order shall direct that the order made under section 2 has full force and effect and may be registered in the same manner as the order made under section 2. R.S.O. 1970, c. 130, s. 3 (3).

Registration

4. An order made under section 2 or 3 may be registered in the land registry office in which the title to the place described in the order is recorded. R.S.O. 1970, c. 130, s. 4.

Limited
occupancy

5.—(1) Upon the application by originating notice of motion of the registered owner or other person having an interest in a place that is closed pursuant to an order made under section 2 and upon his establishing that the place or its contents is or are likely to suffer damage by reason of the closing order, the court may make an order containing such conditions and limitations as the court sees fit to impose and permitting the occupation of the place so far as may be necessary to prevent it or its contents from suffering damage. R.S.O. 1970, c. 130, s. 5 (1).

Service
of notice

(2) Notice of the motion shall be served upon the Attorney General and upon the Crown attorney of the county or district in which the place is situate. R.S.O. 1970, c. 130, s. 5 (2); 1972, c. 1, s. 9 (7).

No appeal

6. There is no appeal from an order made under this Act. R.S.O. 1970, c. 130, s. 6.

Rules of
practice

7.—(1) The rules relating to practice and procedure in the county and district courts, except in so far as they are varied or amended by the Lieutenant Governor in Council, apply to proceedings under this Act.

(2) The Lieutenant Governor in Council may make rules ^{Power to make rules} prescribing,

(a) the practice and procedure under this Act;

(b) the forms to be used under this Act. R.S.O. 1970, c. 130, s. 7.

8. Where an order has been made under section 2 and the place described therein is used in contravention of the ^{Violation of closing order} order,

(a) the registered owner of the place; and

(b) any person found in the place while it is being so used,

shall be deemed to have contravened the order, unless, in the case of a person mentioned in clause (b), he was there for a lawful purpose, the proof whereof is upon him. R.S.O. 1970, c. 130, s. 8.

9.—(1) Every person who contravenes any of the provisions of ^{Offence} this Act or of any order made hereunder is guilty of an offence and on conviction is liable to imprisonment for a term of not less than one month and not more than twelve months.

(2) Where a person convicted under subsection (1) is a corpora- ^{Where person a corporation} tion, it is liable to a fine of not less than \$1,000 and not more than \$5,000. R.S.O. 1970, c. 130, s. 9.

CHAPTER 121

District Municipality of Muskoka Act

INTERPRETATION

1. In this Act,

Interpre-
tation

- (a) “area municipality” means the municipality or corporation of the Town of Bracebridge, the Township of Georgian Bay, the Town of Gravenhurst, the Town of Huntsville, the Township of Lake of Bays and the Township of Muskoka Lakes, all as constituted by section 2;
- (b) “bridge” means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) “chairman” means the chairman of the District Council;
- (d) “debt” includes any obligation for the payment of money;
- (e) “divided municipality” means a local municipality parts of which are annexed to two or more municipalities under subsection 2 (1);
- (f) “District Area” means the area from time to time included within the area municipalities;
- (g) “District Corporation” means The District Municipality of Muskoka;
- (h) “District Council” means the council of the District Corporation;
- (i) “district road” means a road forming part of the district road system established under Part V;
- (j) “highway” and “road” mean a common and public highway or any part thereof, and include a street, bridge, and any other structure incidental thereto or any part thereof;

- (*k*) "land" includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water, and includes any buildings or improvements on land;
- (*l*) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of the District Corporation or of an area municipality or of two or more area municipalities or parts thereof;
- (*m*) "local municipality" means in the year 1970 a local municipality and a geographic township in the District Area and the portion of the geographic township of Finlayson included in the District Area;
- (*n*) "Minister" means the Minister of Intergovernmental Affairs;
- (*o*) "Ministry" means the Ministry of Intergovernmental Affairs;
- (*p*) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money, other than a by-law passed under section 83;
- (*q*) "Municipal Board" means the Ontario Municipal Board. R.S.O. 1970, c. 131, s. 1; 1972, c. 3, s. 17.

PART I

AREA MUNICIPALITIES

Constitution
of area
municipalities

2.—(1) On the 1st day of January, 1971,

- (*a*) The Corporation of the Town of Bracebridge, The Corporation of the Township of Oakley, The Corporation of the Township of Macaulay and The Corporation of the Township of Draper are amalgamated as a town municipality bearing the name of The Corporation of the Town of Bracebridge and the portions of the Township of Monck, the Township of Muskoka, and the Township of McLean described as follows are annexed to such town:

FIRSTLY, part of the Township of Monck, commencing at the intersection of the northerly boundary of the said Township with the production northerly of the east limit of Lot 5 Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 in concessions XIII, XII, XI, X, IX, VIII, VII, VI and V to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;

THENCE westerly along the said centre line of the original allowance for road between concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE southeasterly along the said boundary to its intersection with the boundary between the townships of Monck and Muskoka;

THENCE in a general easterly direction along the said boundary through Lake Muskoka and Muskoka River to the southeast corner of the Township of Monck;

THENCE northerly along the easterly boundary of the said Township of the northeast corner of the said Township;

THENCE westerly along the northerly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom that part of the Town of Bracebridge lying within the Corporation Boundary of the said Town;

SECONDLY, part of the Township of Muskoka, commencing at the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka 10 chains from the original high water mark of Lake Muskoka;

THENCE North $15^{\circ} 41'$ West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South $74^{\circ} 19'$ West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of said Heydon Island;

THENCE North $15^{\circ} 41'$ West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE northerly through Lake Muskoka following the said boundary to its intersection with the boundary between the townships of Muskoka and Monck;

THENCE easterly through Lake Muskoka and Muskoka River following the said boundary between the townships of Muskoka and Monck to the point of commencement;

THIRDLY, part of the Township of McLean commencing at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE southerly along the said westerly boundary to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement;

- (b) The Corporation of the Township of Freeman together with the geographic township of Gibson and the geographic township of Baxter are amalgamated as a township municipality bearing the name of The Corporation of the Township of Georgian Bay;
- (c) The Corporation of the Town of Gravenhurst, The Corporation of the Township of Morrison and The Corporation of the Township of Ryde are amalgamated as a town municipality bearing the name of The Corporation of the Town of Gravenhurst and the portions of the Township of Muskoka and the Township of Wood described as follows are annexed to such town:

FIRSTLY, part of the Township of Muskoka, commencing at the intersection of the easterly boundary of the said Township with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka 10 chains from the original high water mark of Lake Muskoka;

THENCE North $15^{\circ} 41'$ West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South $74^{\circ} 19'$ West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of said Heydon Island;

THENCE North $15^{\circ} 41'$ West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE southwesterly, northwesterly, and southwesterly following the boundary between the townships of Muskoka and Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly along the division line between the townships of Muskoka and Wood to the northwest angle of that part of the Township of Muskoka lying west of Lake Muskoka;

THENCE southerly along the westerly boundary of the said Township to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Town of Gravenhurst;

SECONDLY, part of the Township of Wood, commencing at the intersection of the production northerly of the easterly limit of Lot 9 Concession VI with the easterly limit of the Township of Wood (being the centre line of the allowance for road between the townships of Muskoka and Wood);

THENCE southerly along the easterly boundary of the said Township (being the westerly boundary of the Township of Muskoka) to the northerly boundary of the Township of Morrison;

THENCE westerly along the northerly boundary of the Township of Morrison;

THENCE southerly along the westerly boundary of the Township of Morrison to the southeast corner of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood to its intersection with the east limit of Lot 9 in Concession XX, produced southerly;

THENCE northerly to and along the easterly limit of Lot 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI to the point of commencement;

- (d) The Corporation of the Town of Huntsville, The Corporation of the Village of Port Sydney, The Corporation of the Township of Brunel, The Corporation of the Township of Chaffey, The Corporation of the Township of Stisted and The Corporation of the Township of Stephenson are amalgamated as a town municipality bearing the name of The Corporation of the Town of Huntsville;
- (e) The Corporation of the Township of Franklin, The Corporation of the Township of Ridout and the geographic township of Sinclair are amalgamated as a township municipality bearing the name of The Corporation of the Township of Lake of Bays and the portions of the Township of McLean and the geographic township of Finlayson described as follows are annexed to the said Township of Lake of Bays;

FIRSTLY, part of the Township of McLean, commencing at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE northerly along the said westerly boundary to the northwest corner of the said Township;

THENCE easterly along the northerly boundary of the said Township to the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement;

SECONDLY, part of the geographic township of Finlayson, commencing at the intersection of the centre line of the original allowance for road between lots 20 and 21 produced northerly with the northerly boundary of the said Township;

THENCE westerly along the said northerly boundary to the northwest corner of the said Township;

THENCE southerly along the westerly boundary to the southwest corner of the said Township;

THENCE easterly along the southerly boundary to its intersection with the centre line of the original allowance for road between lots 20 and 21 produced southerly;

THENCE northerly to and along the said centre line of the original allowance for road between lots 20 and 21 and its production northerly to the point of commencement;

- (f) The Corporation of the Town of Bala, The Corporation of the Village of Port Carling, The Corporation of the Village of Windermere, The Corporation of the Township of Cardwell and The Corporation of the Township of Watt are amalgamated as a township municipality bearing the name of The Corporation of the Township of Muskoka Lakes and the portions of the Township of Medora and Wood and the Township of Monck described as follows are annexed to such Township:

FIRSTLY, part of The Corporation of the United Townships of Medora and Wood commencing at the northwest corner of the Township of Medora;

THENCE southerly along the westerly boundary of the Township of Medora and the westerly boundary of the Township of Wood and easterly along the southerly boundary of the Township of Wood to its intersection with the production southerly of the easterly limit of the said Lot 9 Concession XX Township of Wood;

THENCE northerly to and along the eastern limit of Lot 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI and its production northerly to its intersection with the easterly limit of the Township of Wood;

THENCE northerly and easterly along the boundary between the townships of Wood and Muskoka to its intersection with the boundary between the townships of Wood and Monck;

THENCE northwesterly along the boundary between the townships of Wood and Monck to its intersection with the boundary between the townships of Medora and Monck;

THENCE northerly along the boundary between the townships of Medora and Monck to its intersection with the boundary between the townships of Medora and Watt;

THENCE northerly along the boundary between the townships of Medora and Watt to the northeast corner of the Township of Medora;

THENCE westerly along the northerly boundary of the township of Medora to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Corporation Boundary of the Village of Port Carling and the Corporation Boundary of the Town of Bala;

SECONDLY, part of the Township of Monck, commencing at the northwest corner of the said Township;

THENCE easterly along the northerly boundary to its intersection with the production northerly of the east limit of Lot 5 Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 in concessions XIII, XII, XI, X, IX, VIII, VII, VI and V to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;

THENCE westerly along the said centre line of the original allowance for road between concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE northwesterly along the boundary between the townships of Monck and Wood and the boundary between the townships of Monck and Medora to its intersection with the westerly boundary of the Township of Monck;

THENCE northerly along the said westerly boundary to the point of commencement.

NOTE: *All Bearings are astronomic and are referred to the meridian passing through the northeast corner of the Township of Monck.*

Amalgamations and annexations deemed by Municipal Board orders

R.S.O. 1980, cc. 347, 302

(2) For the purposes of every Act, the amalgamations and annexations provided for in this Part shall be deemed to have been effected by order of the Municipal Board not subject to section 42 of the *Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of such Act, made on the 26th day of June, 1970, pursuant to applications made under sections 14 and 25 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960, and, subject to the provisions of this Act, the Municipal Board, upon the application of any area municipality or any local board thereof or of its own motion, may exercise its powers consequent upon such amalgamations, annexations and dissolutions, and sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers, and "municipalities" in clause 14 (11) (a) of the *Municipal Act* includes, for the purposes of such clause, the area municipalities to which territory is annexed. R.S.O. 1970, c. 131, s. 2.

Wards of area municipalities: Bracebridge

3.—(1) The area municipality of the Town of Bracebridge is divided into the following wards:

1. Bracebridge Ward—which shall comprise the area of the Town of Bracebridge as it exists on the 1st day of July, 1970.
2. Draper Ward—which shall comprise the area of the Township of Draper as it exists on the 1st day of July, 1970.
3. Macaulay Ward—which shall comprise the area of the Township of Macaulay as it exists on the 1st day of July, 1970.
4. Monck South Ward—which shall comprise part of the Township of Monck being more particularly described as follows:

COMMENCING at the intersection of the northerly boundary of the said Township with the production northerly of the east limit of Lot 5 Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 in concessions XIII, XII, XI, X, IX, VIII, VII, VI and V to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;

THENCE westerly along the said centre line of the original allowance for road between Concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE southeasterly along the said boundary to its intersection with the boundary between the townships of Monck and Muskoka;

THENCE in a general easterly direction along the said boundary through Lake Muskoka and Muskoka River to the southeast corner of the Township of Monck;

THENCE northerly along the easterly boundary of the said Township to the northeast corner of the said Township;

THENCE westerly along the northerly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Bracebridge Ward.

5. Muskoka North Ward—which shall comprise the part of the Township of Muskoka being more particularly described as follows:

COMMENCING at the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka, 10 chains from the original high water mark of Lake Muskoka;

THENCE North $15^{\circ} 41'$ West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South $74^{\circ} 19'$ West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of said Heydon Island;

THENCE North $15^{\circ} 41'$ West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE northerly through Lake Muskoka following the said boundary to its intersection with the boundary between the townships of Muskoka and Monck;

THENCE easterly through Lake Muskoka and Muskoka River following the said boundary between the townships of Muskoka and Monck to the point of commencement.

6. Oakley Ward—which shall comprise the area of the Township of Oakley as it exists on the 1st day of July, 1970, together with part of the Township of McLean being more particularly described as follows:

COMMENCING at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE southerly along the said westerly boundary to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement.

(2) The area municipality of the Township of Georgian Bay is divided into the following wards:

1. Baxter Ward—which shall comprise the area of the geographic township of Baxter as it exists on the 1st day of July, 1970.
2. Freeman Ward—which shall comprise the area of the Township of Freeman as it exists on the 1st day of July, 1970.
3. Gibson Ward—which shall comprise the area of the geographic township of Gibson as it exists on the 1st day of July, 1970.

(3) The area municipality of the Town of Gravenhurst is divided into the following wards:

1. Gravenhurst Ward—which shall comprise the area of the Town of Gravenhurst as it exists on the 1st day of July, 1970.
2. Morrison Ward—which shall comprise the area of the Township of Morrison as it exists on the 1st day of July, 1970.
3. Muskoka South Ward—which shall comprise part of the Township of Muskoka and part of the Township of Wood, being more particularly described as follows:

Part of Township of Muskoka

COMMENCING at the intersection of the easterly boundary of the said Township with the production easterly of the south limit of Concession X;

THENCE westerly to and along the southerly limit of Concession X and its production into Lake Muskoka, 10 chains from the original high water mark of Lake Muskoka;

THENCE North $15^{\circ} 41'$ West 90 chains, more or less, through Lake Muskoka to its intersection with a line drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of Heydon Island in Lake Muskoka;

THENCE South $74^{\circ} 19'$ West 211 chains, more or less, through Lake Muskoka to a point distant 16 chains drawn on a bearing of North $74^{\circ} 19'$ East from the most southerly point of said Heydon Island;

THENCE North $15^{\circ} 41'$ West 91 chains, more or less, through Lake Muskoka to its intersection with the boundary between the townships of Muskoka and Wood;

THENCE southwesterly, northwesterly and southwesterly following the said boundary between the townships of Muskoka and Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly along the division line between the townships of Muskoka and Wood to the northwest angle of that part of the Township of Muskoka lying west of Muskoka Lake;

THENCE southerly along the westerly boundary of the said Township to the southwest corner of the said Township;

THENCE easterly along the southerly boundary of the said Township to the southeast corner of the said Township;

THENCE northerly along the easterly boundary of the said Township to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within the Gravenhurst Ward;

Part of Township of Wood

COMMENCING at the intersection of the production northerly of the easterly limit of Lot 9 Concession VI with the easterly limit of the Township of Wood (being the centre line of the allowance for road between the townships of Muskoka and Wood);

THENCE southerly along the easterly boundary of the said Township (being the westerly boundary of the Township of Muskoka) to the northerly boundary of the Township of Morrison;

THENCE westerly along the northerly boundary of the Township of Morrison;

THENCE southerly along the westerly boundary of the Township of Morrison to the southeast corner of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood being the centre line of the Severn River to its intersection with the east limit of Lot 9 in Concession XX, produced southerly;

THENCE northerly to and along the easterly limit of Lots 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI to the point of commencement.

4. Ryde Ward — which shall comprise the area of the Township of Ryde as it exists on the 1st day of July, 1970.

(4) The area municipality of the Town of Huntsville is ^{Huntsville} divided into the following wards:

1. Brunel Ward — which shall comprise the area of the Township of Brunel as it exists on the 1st day of July, 1970.
2. Chaffey Ward — which shall comprise the area of the Township of Chaffey as it exists on the 1st day of July, 1970.
3. Huntsville Ward — which shall comprise the area of the Town of Huntsville as it exists on the 1st day of July, 1970.
4. Port Sydney Ward — which shall comprise the area of the Village of Port Sydney as it exists on the 1st day of July, 1970.

5. Stephenson Ward — which shall comprise the area of the Township of Stephenson as it exists on the 1st day of July, 1970.
6. Stisted Ward — which shall comprise the area of the Township of Stisted as it exists on the 1st day of July, 1970.

Lake of Bays

(5) The area municipality of the Township of Lake of Bays is divided into the following wards:

1. Franklin Ward — which shall comprise the area of the Township of Franklin as it exists on the 1st day of July, 1970.
2. McLean Ward — which shall comprise part of the Township of McLean being more particularly described as follows:

COMMENCING at the intersection of the westerly boundary of the said Township with the production westerly of the south limit of Concession IV;

THENCE northerly along the said westerly boundary to the northwest corner of the said Township;

THENCE easterly along the northerly boundary of the said Township to the northeast corner of the said Township;

THENCE southerly along the easterly boundary of the said Township to its intersection with the production easterly of the south limit of Concession IV;

THENCE westerly to and along the south limit of Concession IV and its production westerly to the point of commencement.

3. Ridout Ward — which shall comprise the area of the Township of Ridout as it exists on the 1st day of July, 1970.
4. Sinclair Ward — which shall comprise the area of the geographic township of Sinclair as it exists on the 1st day of July, 1970, and part of the geographic township of Finlayson in the District of Nipissing being more particularly described as follows:

COMMENCING at the intersection of the centre line of the original allowance for road between lots 20 and 21 produced northerly with the northerly boundary of the said township of Finlayson;

THENCE westerly along the said northerly boundary to the northwest corner of the said township of Finlayson;

THENCE southerly along the westerly boundary to the southwest corner of the said township of Finlayson;

THENCE easterly along the southerly boundary to its intersection with the centre line of the original allowance for road between lots 20 and 21 produced southerly;

THENCE northerly to and along the said centre line of the original allowance for road between lots 20 and 21 and its production northerly to the point of commencement.

(6) The area municipality of the Township of Muskoka ^{Muskoka} Lakes is divided into the following wards: ^{Lakes}

1. Bala Ward — which shall comprise the area of the Town of Bala as it exists on the 1st day of July, 1970.
2. Cardwell Ward — which shall comprise the area of the Township of Cardwell as it exists on the 1st day of July, 1970.
3. Medora and Wood Ward — which shall comprise part of the Township of Medora and Wood being more particularly described as follows:

COMMENCING at a point on the west boundary of the Township of Medora at its intersection with the production westerly of the centre line of the road allowance between concessions IV and V for the said Township;

THENCE easterly along the centre line of the said road allowance and the production easterly thereof to a point in Lake Joseph measured easterly along the said production being distant 30 chains from its intersection with the production northerly of the division line between lots 16 and 17;

THENCE southeasterly through Lake Joseph along a straight line to a point on the southerly shore of its intersection with the division line between concessions III and IV at the rear of Lot 24;

THENCE easterly along the said division line and its production easterly to the production northerly of the centre line of the road allowance between lots 25 and 26;

THENCE southerly to and along the centre line of the said road allowance to the centre line of the road allowance and its production southerly between concessions E and F;

THENCE westerly along the centre line of the road allowance between concessions E and F to the east shore of North Bay of Lake Muskoka;

THENCE in a southeasterly direction following the said shore to the most southerly point of Mortimer's Point;

THENCE southeasterly in a straight line through Lake Muskoka to a point on the geographical boundary between the Township of Medora and Wood at its intersection with a line connecting a point on the south shore of East Bay of Lake Muskoka at its intersection with the centre line of the road allowance between lots 15 and 16 Concession V for the Township of Wood with a point on the north shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 in Concession D in the Township of Medora;

THENCE southeasterly along the said connecting line to the shore of East Bay of Lake Muskoka;

THENCE southerly along the centre line of the road allowance between lots 15 and 16 to its intersection with the centre line of the road allowance between concessions IX and X for the said Township of Wood;

THENCE westerly along the centre line of the road allowance between concessions IX and X and the production westerly thereof to its intersection with the western limit for the said Township of Wood;

THENCE northerly along the western limit of the said Township of Wood and the western limit of the said Township of Medora to the point of commencement;

SAVING AND EXCEPTING thereout and therefrom the lands lying within Bala Ward.

4. Monck North Ward — which shall comprise part of the Township of Monck being more particularly described as follows:

COMMENCING at the northwest corner of the said Township;

THENCE easterly along the northerly boundary to its intersection with the production northerly of the east limit of Lot 5 Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 to the intersection of the easterly limit of Lot 5 Concession V produced southerly with the centre line of the original allowance for road between concessions IV and V;

THENCE westerly along the said centre line of the original allowance for road between concessions IV and V to its intersection with the original high water mark of Lake Muskoka;

THENCE North 85° West through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between lots 15 and 16 in Concession VI;

THENCE South 10° West through Lake Muskoka a distance of 43 chains;

THENCE North 80° West through Lake Muskoka between Pine and Birch Islands, 136 chains;

THENCE South 10° West through Lake Muskoka to its intersection with the boundary between the townships of Monck and Wood;

THENCE northwesterly along the boundary between the townships of Monck and Wood and the boundary between the townships of Monck and Medora to its intersection with the westerly boundary of the Township of Monck;

THENCE northerly along the said westerly boundary to the point of commencement.

5. Port Carling Ward — which shall comprise the area of the Village of Port Carling as it exists on the 1st day of July, 1970.
6. Medora North Ward — which shall comprise part of the Township of Medora and Wood being more particularly described as follows:

COMMENCING at the northwest angle of the Township of Medora;

THENCE southerly along the westerly limit of the said Township to its intersection with a production westerly of the centre line of the road allowance between concessions IV and V for the said Township;

THENCE easterly along the centre line of the road allowance between concessions IV and V and the production easterly thereof to a point in Lake Joseph, measured easterly along the said production and distant 30 chains from its intersection with the division line between lots 16 and 17 in Concession IV;

THENCE southeasterly through Lake Joseph on a straight line to a point on the southerly shore at its intersection with the division line between concessions III and IV at the rear of Lot 24;

THENCE easterly along the said division line and its production easterly to the production northerly of the centre line of the road allowance between lots 25 and 26;

THENCE southerly to and along the centre line of the road allowance and its production southerly to the centre line of the road allowance between concessions E and F;

THENCE westerly along the centre line of the road allowance between the said concessions E and F to the east shore of North Bay of Lake Muskoka;

THENCE in a southeasterly direction following the said shore to the most southerly point of Mortimer's Point;

THENCE southeasterly in a straight line through Lake Muskoka to a point on the geographical boundary between the Township of Medora and Wood at its intersection with a line connecting a point on the south shore of East Bay of Lake Muskoka at its intersection with the centre line of the road allowance between lots 15 and 16 Concession V for the Township of Wood with a point on the north shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 in Concession D in the Township of Medora;

THENCE in a general northeasterly direction through Lake Muskoka following the geographical boundary between the said Township of Medora and Wood and the boundary between Medora and Monck to its intersection with the north shore of Lake Muskoka being the most southeasterly angle of the boundary of the Village of Port Carling;

THENCE northwesterly, northerly and southeasterly following the boundary of the said Village of Port Carling to a point on the shore of Lake Rosseau at its intersection with the east boundary of the Township of Medora;

THENCE in a general northerly direction through Lake Rosseau following the eastern limit of the said Township of Medora to its intersection with the northerly limit of the said Township;

THENCE westerly along the northerly limit of the said Township to the point of commencement.

7. Watt Ward — which shall comprise the area of the Township of Watt as it exists on the 1st day of July, 1970.
8. Windermere Ward — which shall comprise the area of the Village of Windermere as it exists on the 1st day of July, 1970.
9. Wood South Ward — which shall comprise part of the townships of Medora and Wood being more particularly described as follows:

COMMENCING at a point in the westerly boundary of the Township of Wood at its intersection with the production westerly of the centre line of the road allowance between concessions IX and X of the said Township;

THENCE easterly along the centre line of the said road allowance to the centre line of the road allowance between lots 15 and 16;

THENCE northerly along the centre line of the road allowance between the said lots 15 and 16 to its intersection with the southerly shore of East Bay of Lake Muskoka;

THENCE northwesterly through Lake Muskoka along the straight line connecting the hereinbefore described point on the shore of East Bay with a point on the shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 for the Township of Medora to its intersection with the geographical boundary between the Township of Medora and Wood;

THENCE in a general northeasterly direction, following the geographical boundary between the Township of Medora and Wood through Lake Muskoka to its intersection with the geographical boundary between the townships of Wood and Muskoka;

THENCE northerly along the centre line of the road allowance between the said lots 15 and 16 to its intersection with the southerly shore of East Bay of Lake Muskoka;

THENCE northwesterly through Lake Muskoka along the straight line connecting the hereinbefore described point on the shore of East Bay with a point on the shore of Lake Muskoka at its intersection with the centre line of the road allowance between lots 30 and 31 for the Township of Medora, to its intersection with the geographical boundary between the Township of Medora and Wood;

THENCE in a general northeasterly direction, following the geographical boundary between the Township of Medora and Wood through Lake Muskoka to its intersection with the geographical boundary between the townships of Wood and Muskoka;

THENCE southwesterly, northwesterly and southwesterly following the boundary between the townships of Muskoka and Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly and southerly along the division line between the townships of Muskoka and Wood to the production northerly of Lot 9 Concession VI of the Township of Wood;

THENCE southerly to and along the easterly limit of Lot 9 in concessions XX, XIX, XVIII, XVII, XVI, XV, XIV, XIII, XII, XI, X, IX, VIII, VII and VI and its production to its intersection with the southerly boundary of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood to its intersection with the westerly limit of the said Township;

THENCE northerly along the westerly limit of the said Township being the easterly limit of the Township of Baxter and the Township of Gibson to the point of commencement.

NOTE: *All Bearings are astronomic and are referred to the meridian passing through the northeast corner of the Township of Monck.*

(7) The council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and such other members elected in the wards in the area municipality as follows:

Ward representation on area councils

1. The Town of Bracebridge:
- Bracebridge Ward.....

Draper Ward.....

Macaulay Ward.....

Monck South Ward.....

Muskoka North Ward.....

Oakley Ward.....
- Three members

One member

One member

One member

One member

One member
2. The Township of Georgian Bay:
- Baxter Ward.....

Freeman Ward.....

Gibson Ward.....
- Two members

Two members

One member
3. The Town of Gravenhurst:
- Gravenhurst Ward.....

Morrison Ward.....

Muskoka South Ward.....

Ryde Ward.....
- Three members

Two members

Two members

One member

4. The Town of Huntsville:

Brunel Ward.....	One member
Chaffey Ward.....	Two members
Hunstville Ward.....	Two members
Port Sydney Ward.....	One member
Stephenson Ward.....	One member
Stisted Ward.....	One member

5. The Township of Lake of Bays:

Franklin Ward.....	Two members
McLean Ward.....	One member
Ridout Ward.....	One member
Sinclair Ward.....	One member

6. The Township of Muskoka Lakes:

Bala Ward.....	One member
Cardwell Ward.....	One member
Medora and Wood Ward.....	One member
Monck North Ward.....	One member
Port Carling Ward.....	One member
Medora North Ward.....	One member
Watt Ward.....	One member
Windermere Ward.....	One member
Wood South Ward.....	One member

R.S.O. 1970, c. 131, s. 3 (1-7).

PART II

INCORPORATION AND COUNCIL OF DISTRICT AREA

District
Corporation
continued

4.—(1) The inhabitants of the District Area are continued a body corporate under the name of The District Municipality of Muskoka.

Deemed
municipality
under
R.S.O. 1980,
cc. 303, 347

(2) The District Corporation shall be deemed to be a municipality for the purposes of the *Municipal Affairs Act* and the *Ontario Municipal Board Act*.

Provisional
judicial
district

(3) The District Municipality of Muskoka is for judicial purposes a provisional judicial district.

Registry
and land
titles
divisions
not affected

(4) Nothing in this Act shall be deemed to alter the boundaries of any registry or land titles division. R.S.O. 1970, c. 131, s. 5; 1972, c. 1, s. 104 (6).

5.—(1) The powers of the District Corporation shall be exercised by the District Council and, except where otherwise provided, the jurisdiction of the District Council is confined to the District Area.

District
Council to
exercise
corporate
powers

(2) Except where otherwise provided, the powers of the District Council shall be exercised by by-law.

Powers
exercised
by by-law

(3) A by-law passed by the District Council in the exercise of any of its powers and in good faith shall not be open to question or be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them.

Not to be
quashed as
unreasonable

6.—(1) The District Council shall consist of twenty-three members composed of a chairman and,

Composition
of District
Council

- (a) the mayor of each area municipality;
- (b) three members elected by the council of the area municipality of the Town of Bracebridge as follows,
 - (i) one member elected to such council for Bracebridge Ward,
 - (ii) one member elected to such council for either Monck South Ward or Muskoka North Ward,
 - (iii) one member elected to such council for one of the wards of Draper, Macaulay or Oakley;
- (c) two members elected by the council of the area municipality of the Township of Georgian Bay as follows,
 - (i) one member elected to such council for Baxter Ward,
 - (ii) one member elected to such council for either Freeman Ward or Gibson Ward;
- (d) three members elected by the council of the area municipality of the Town of Gravenhurst as follows,
 - (i) one member elected to such council for Gravenhurst Ward,
 - (ii) one member elected to such council for Muskoka South Ward,

- (iii) one member elected to such council for either Morrison Ward or Ryde Ward;
- (e) three members elected by the council of the area municipality of the Town of Huntsville as follows,
 - (i) one member elected to such council for Huntsville Ward,
 - (ii) one member elected to such council for Chaffey Ward,
 - (iii) one member elected to such council for one of the wards of Brunel, Port Sydney, Stephen-son and Stisted;
- (f) two members elected by the council of the area municipality of the Township of Lake of Bays as follows,
 - (i) one member elected to such council for either Franklin Ward or Sinclair Ward,
 - (ii) one member elected to such council for either Ridout Ward or McLean Ward;
- (g) three members elected by the council of the area municipality of the Township of Muskoka Lakes as follows,
 - (i) one member elected to such council for one of the wards of Bala, Port Carling or Windermere,
 - (ii) one member elected to such council for one of the wards of Cardwell, Monck North or Watt,
 - (iii) one member elected to such council for one of the wards of Medora and Wood, Medora North or Wood South. R.S.O. 1970, c. 131, s. 7 (1).

Election of
members to
District
Council

(2) The council of each area municipality shall at its first meeting after a regular election elect its members to the District Council. 1978, c. 34, s. 2.

Election of
chairman

7.—(1) At the first meeting of the District Council after a regular election at which a quorum is present, the District Council shall organize as a council and elect as chairman one of the members of the District Council, or any other person,

to hold office for the term of the council and until his successor is appointed or elected in accordance with this Act, and at such meeting the clerk shall preside until the chairman is elected. 1978, c. 34, s. 3 (1).

(2) Where a member of the council of an area municipality becomes chairman, he shall be deemed to have resigned as a member of such council, and his seat on such council thereby becomes vacant. R.S.O. 1970, c. 131, s. 8 (3). Where
chairman
member of
area council

(3) If, at the first meeting of the District Council after a regular election, a chairman is not elected, the presiding officer may adjourn the meeting from time to time, and, if a chairman is not elected at any adjourned meeting held within one week after the first meeting, the Lieutenant Governor in Council shall appoint a chairman to hold office for the term of the council and until his successor is elected or appointed in accordance with this Act. 1978, c. 34, s. 3 (2). Failure
to elect
chairman

(4) When the chairman is absent or refuses to act, or his office is vacant, the District Council may by resolution appoint one of its members to act in his place and stead and, while so acting, such member has and may exercise all the rights, powers and authority of the chairman. Acting
chairman

(5) The District Council may by by-law appoint a member of the District Council to act from time to time in the place and stead of the chairman when the chairman is absent from the District Area or absent through illness or his office is vacant and, while so acting, such member has and may exercise all the rights, powers and authority of the chairman. 1974, c. 119, s. 1. Idem

8.—(1) Notwithstanding any other general or special Act, the first meeting of the council of each area municipality after a regular election shall be held not later than the seventh day following the day on which the term of office in respect of which the election was held commences. First
meeting
of area
councils

(2) The first meeting of the District Council after a regular election shall be held after the councils of the area municipalities have held their first meetings under subsection (1), but in any event not later than the fourteenth day following the day on which the term of office in respect of which the election was held commences, on such date and at such time and place as may be fixed by by-law of the District Council. 1978, c. 34, s. 4. First
meeting of
District
Council

(3) A person entitled to be a member of the District Council in accordance with section 6, other than the mayor of each municipi- Certificate
of qualifi-
cation

pality, shall not take his seat as a member until he has filed with the person presiding at the first meeting of the District Council that he attends a certificate under the hand of the clerk of the area municipality that he represents and under the seal of such area municipality certifying that he is entitled to be a member under such section. R.S.O. 1970, c. 131, s. 9 (4).

Oath of
allegiance,
declaration
of qualifi-
cation

(4) The chairman, before taking his seat, shall take an oath of allegiance in Form 1 and a declaration of qualification in Form 2.

Declaration
of office

R.S.O. 1980,
c. 302

(5) No business shall be proceeded with at the first meeting of the District Council until after the declarations of office in Form 3 of the *Municipal Act* have been made by all members who present themselves for that purpose.

When
council
deemed
organized

(6) The District Council shall be deemed to be organized when the declarations of office have been made by a sufficient number of members to form a quorum as provided for in section 9. R.S.O. 1970, c. 131, s. 9 (6-8).

Quorum
voting

9.—(1) Twelve members of the District Council representing at least four area municipalities are necessary to form a quorum and the concurring votes of a majority of members present are necessary to carry any resolution or other measure.

One vote

(2) Subject to subsection (3), each member of the District Council has one vote only.

Chairman
vote

(3) The chairman does not have a vote except in the event of an equality of votes. R.S.O. 1970, c. 131, s. 10.

Vacancies,
chairman

10.—(1) When a vacancy occurs in the office of a chairman who has been appointed by the Lieutenant Governor in Council, some person shall be appointed by the Lieutenant Governor in Council to hold office as chairman for the remainder of the term of his predecessor.

Idem

(2) Except as provided in subsection (1), when a vacancy occurs in the office of chairman, the District Council shall, at a general or special meeting to be held within twenty days after the vacancy occurs, elect a chairman who may be one of the members of the District Council, or any other person, to hold office for the remainder of the term of his predecessor.

Idem

(3) If the District Council fails to elect a chairman within twenty days as required by subsection (2), the Minister may

appoint a person as chairman to hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 131, s. 11 (1-3).

(4) When a vacancy occurs in the office of a member other than the chairman or the head of the council of an area municipality, the council of the area municipality from which he was elected shall by by-law within sixty days after the vacancy occurs appoint a successor, who is eligible to be elected a member of the District Council, to hold office for the remainder of the term of his predecessor. R.S.O. 1970, c. 131, s. 11 (4); 1976, c. 55, s. 1.

(5) Section 39 of the *Municipal Act*, except clauses (d) When seat to become vacant R.S.O. 1980, c. 302 and (f), applies to the District Council.

(6) In the event that the head of a council of an area municipality is for any reason unable to fulfil his duties as a member of the District Council for a period exceeding one month, the council of the area municipality may by by-law appoint one of its members as an alternate representative to the District Council who shall act in the place and stead of the head of council during his incapacity, but no such by-law shall have effect for a period longer than one month from its effective date. R.S.O. 1970, c. 131, s. 11 (5, 6). Where head of council incapacitated

11. The District Council may from time to time establish Committees such standing or other committees and assign to them such duties as it considers expedient. R.S.O. 1970, c. 131, s. 13.

12. The District Council may pass by-laws for governing Procedural by-laws the proceedings of the District Council and any of its committees, the conduct of its members and the calling of meetings. R.S.O. 1970, c. 131, s. 14.

13.—(1) The chairman is the head of the District Council Head of Council and is the chief executive officer of the District Corporation.

(2) The District Council may by by-law appoint a chief Chief administrative officer administrative officer, who,

- (a) shall have such general control and management of the administration of the government and affairs of the District Corporation and perform such duties as the District Council by by-law prescribes;
- (b) shall be responsible for the efficient administration of all its departments to the extent that he is given authority and control over them by by-law;

(c) shall hold office during the pleasure of the District Council; and

(d) shall receive such salary as the District Council by by-law determines.

Application
of
R.S.O. 1980,
c. 302

(3) Subsection 99 (2) of the *Municipal Act* applies to a chief administrative officer appointed under subsection (2). R.S.O. 1970, c. 131, s. 15.

Acting
chairman

14. When the chairman is absent from the District Area or absent through illness, or refuses to act, the District Council may by resolution appoint one of its members to act in his place and stead, and such member shall have and may exercise all the rights, powers and authority of the chairman during such absence or refusal to act. R.S.O. 1970, c. 131, s. 17.

Application
of
R.S.O. 1980,
c. 302

15.—(1) Sections 57, 58, 60, 62, 63, 129, 137, 138, 139, 140, 141 and 247 of the *Municipal Act* apply with necessary modifications to the District Corporation.

Idem

(2) Sections 55, 64, 65 and 107 of the *Municipal Act* apply with necessary modifications to the District Council and to every local board of the District Corporation. R.S.O. 1970, c. 131, s. 17.

Idem

(3) Sections 238, 239, 240, to 244, 247, 248, 249 and 250 of the *Municipal Act* apply with necessary modifications to the District Council. 1980, c. 29, s. 1.

Appointment
of clerk

16.—(1) The District Council shall appoint a clerk, whose duty it is,

(a) to record truly without note or comment, all resolutions, decisions and other proceedings of the District Council;

(b) if required by any member present, to record the name and vote of every member voting on any matter or question;

(c) to keep in his office, or in the place appointed for that purpose, the originals of all by-laws and of all minutes of the proceedings of the District Council and its committees; and

(d) to perform such other duties as may be assigned to him by the District Council.

(2) The District Council may appoint a deputy clerk who shall have all the powers and duties of the clerk. Deputy clerk

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties, through illness or otherwise, the District Council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk. Acting clerk
R.S.O. 1970, c. 131, s. 18 (1-3).

17.—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents in the possession or under the control of the clerk, except interdepartmental correspondence and reports of officials of any department or of solicitors for the District Corporation made to the District Council or any of its committees, and the clerk within a reasonable time shall furnish copies of them or extracts therefrom certified under his hand and the seal of the District Corporation to any applicant on payment at the rate of 15 cents for every 100 words or at such lower rate as the District Council may fix. Minutes open to inspection

(2) The clerk shall keep an index book in which he shall enter the number and date of all by-laws passed by the District Council that affect land or the use thereof in the District Area but do not directly affect the title to land. Index of by-laws affecting land

(3) A copy of any record, book or document in the possession or under the control of the clerk, purporting to be certified under his hand and the seal of the District Corporation, may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. R.S.O. 1970, c. 131, s. 19. Copies certified by clerk to be receivable in evidence

18.—(1) The District Council shall appoint a treasurer who shall keep the books, records and accounts, and prepare the annual financial statements of the District Corporation and preserve and file all accounts of the District Corporation and perform such other duties as may be assigned to him by the District Council. Appointment of treasurer

(2) The District Council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer. Deputy treasurer

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties, through illness or otherwise, the District Council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer. R.S.O. 1970, c. 131, s. 20. Acting treasurer

Receipt and
disburse-
ment of
money

19.—(1) The treasurer shall receive and safely keep all money of the District Corporation, and shall pay out money to such persons and in such manner as the law in force in Ontario and the by-laws or resolutions of the District Council direct, provided that every cheque issued by the treasurer shall be signed by the treasurer and by some other person or persons designated for the purpose by by-law or resolution of the District Council, and any such other person before signing a cheque shall satisfy himself that the issue thereof is authorized.

Signing of
cheques

(2) Notwithstanding subsection (1), the District Council may by by-law,

(a) designate one or more persons to sign cheques in lieu of the treasurer; and

(b) provide that the signature of the treasurer and of any other person authorized to sign cheques may be written or engraved, lithographed, printed or otherwise mechanically reproduced on cheques.

Petty cash
fund

(3) The District Council may by by-law provide that the treasurer may establish and maintain a petty cash fund of an amount of money sufficient to make change and pay small accounts, subject to such terms and conditions as the by-law may provide. R.S.O. 1970, c. 131, s. 21 (1-3).

When
member may
be paid

(4) Except where otherwise expressly provided by this Act, a member of the District Council shall not receive any money from the treasurer for any work or service performed or to be performed, but nothing in this subsection prevents the payment of any moneys under any contract in respect of which the member has complied with section 2 of the *Municipal Conflict of Interest Act*. R.S.O. 1970, c. 131, s. 21 (4); 1973, c. 146, s. 1.

R.S.O. 1980,
c. 305

Treasurer's
liability
limited

(5) The treasurer is not liable for money paid by him in accordance with a by-law or resolution of the District Council, unless another disposition of it is expressly provided for by statute. R.S.O. 1970, c. 131, s. 21 (5).

Bank
accounts

20. Subject to subsection 19 (3), the treasurer shall,

(a) open an account or accounts in the name of the District Corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved by the District Council;

- (b) deposit all money received by him on account of the District Corporation, and no other money, to the credit of such account or accounts, and no other account; and
- (c) keep the money of the District Corporation entirely separate from his own money and from that of any other person,

and, notwithstanding subsection 19 (1), the District Council shall not by by-law or resolution direct any variance from the provisions of this section, nor shall the treasurer vary from such provisions. R.S.O. 1970, c. 131, s. 22.

21.—(1) The Treasurer shall prepare and submit to the District Council, monthly, a statement of the money at the credit of the District Corporation. ^{Monthly statement}

(2) Where the treasurer is removed from office or absconds, the District Council shall forthwith give notice to his sureties. ^{Notice to sureties} R.S.O. 1970, c. 131, s. 23.

22.—(1) The District Council shall by by-law appoint one or more auditors who shall be persons licensed by the Ministry as municipal auditors and who shall hold office during good behaviour and be removable for cause by the District Council and the auditor or auditors so appointed shall audit the accounts and transactions of the District Corporation and of every local board of the District Corporation. 1977, c. 35, s. 1. ^{Appointment of auditors}

(2) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the District Corporation and charged back to the local board, and, in the event of a dispute as to the amount of the cost, the Ministry may upon application finally determine the amount thereof. R.S.O. 1970, c. 131, s. 24 (2); 1972, c. 1, s. 1. ^{Cost of audit}

(3) No person shall be appointed as an auditor of the District Corporation who is or during the preceding year was a member of the District Council or of the council of an area municipality or of any local board, the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the District Corporation or an area municipality or any such local board, or any employment with any of them ^{Disqualification of auditors}

other than for services within his professional capacity. R.S.O. 1970, c. 131, s. 24 (3); 1976, c. 55, s. 2.

Duties of
auditors

(4) An auditor shall perform such duties as are prescribed by the Ministry and also such duties as may be required by the District Council or any local board of the District Corporation that do not conflict with the duties prescribed by the Ministry. R.S.O. 1970, c. 131, s. 24 (4); 1972, c. 1, s. 1.

Audit of
accounts
before
payment

(5) The District Council may provide that all accounts shall be audited before payment. R.S.O. 1970, c. 131, s. 24 (5).

Application
of
R.S.O. 1980,
c. 302

23.—(1) Sections 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 109 and 117 and paragraphs 45, 46, 47, 48, 49 of section 208 of the *Municipal Act* apply with necessary modifications to the District Corporation.

Pensions

(2) Where the District Corporation or a local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the District Area, the District Corporation or local board thereof shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 26th day of June, 1970 in respect of the employee if such employee was or was entitled to be a member of the Ontario Municipal Employees Retirement System on the day immediately preceding his employment with the District Corporation or local board thereof and such employee shall have uninterrupted membership or entitlement to membership, as the case may be, in the Ontario Municipal Employees Retirement System.

Idem

(3) Where the District Corporation or local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the District Area, the employee shall be deemed to remain an employee of the local municipality or local board thereof for the purposes of his entitlement under any approved pension plan.

Sick leave
credits

(4) Where the District Corporation or local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the District Area, the employee shall be deemed to remain an employee of the municipality or local board thereof until the District Corporation or local board thereof has established a sick leave credit plan for its employees, and the employees are entitled to receive such benefits from the District Corporation, whereupon the District Corporation or local board

thereof shall place to the credit of the employee the sick leave credits standing to his credit in the plan of the municipality or local board thereof.

(5) Where the District Corporation or a local board thereof employs a person theretofore employed by a local municipality or a local board thereof within the District Area, the District Corporation or local board thereof shall, during the first year of his employment by the District Corporation or local board thereof, provide for such employee's holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the municipality or local board thereof.

(6) The District Council shall offer to employ every person who, on the 1st day of April, 1970, is employed in any undertaking of any local municipality or local board that is assumed by the District Corporation under this Act. R.S.O. 1970, c. 131, s. 25 (1-6).

(7) The District Corporation shall be deemed to be a municipality for the purposes of the *Ontario Municipal Employees Retirement System Act*. Application of R.S.O. 1980, c. 348

(8) The employees of the local municipalities and the local boards thereof within the District Area, which are amalgamated or annexed in whole or in part to form an area municipality, who were employed by such a local municipality or local board on the 1st day of April, 1970, and continue to be so employed until the 31st day of December, 1970, except employees offered employment by the District Council under subsection (6), shall be offered employment by the council of the area municipality with which they are amalgamated or to which they are annexed. Offer of employment

(9) Any sick leave credits standing, on the 31st day of December, 1970, to the credit of any person who accepts employment under subsection (8) shall be placed to the credit of such employee in any sick leave credit plan established by the new employer. Sick leave credits

(10) Any person who accepts employment under subsection (8) shall be entitled to receive during the first year of his employment such holidays with pay equivalent to those to which he would have been entitled if he had remained in the employment of the local municipality or local board by which he was formerly employed. Holidays

(11) Nothing in this section prevents any employer from terminating the employment of an employee for cause. Termination of employment
R.S.O. 1970, c. 131, s. 25.

PART III

DISTRICT WATERWORKS SYSTEM

Supply and
distribution
of water by
District
Corporation

24.—(1) On and after the 1st day of January, 1975, the District Corporation shall have the sole responsibility for the supply and distribution of water in the District Area, including the establishment, construction, maintenance, operation, improvement and the extension of waterworks systems and the financing thereof, and all the provisions of any general Act relating to such supply and distribution of water and the financing thereof by a municipal corporation or a local board thereof and all of the provisions of any special Act relating to such supply and distribution of water and the financing thereof by an area municipality or a local board thereof, apply with necessary modifications to the District Corporation, except the power to establish a public utilities commission.

Method of
financing

(2) The District Corporation may finance the whole or any part of the cost of the construction, operation, maintenance and debt charges of such supply and distribution of water by establishing one or more urban service areas with the approval of the Municipal Board and raising the moneys required by imposing a rate or rates in such area or areas, or may raise the moneys required by any other method or methods authorized by law or by any combination thereof.

Preparation
of special
assessment
rolls and
collection of
special
assessments

(3) If the District Corporation proceeds under the *Local Improvement Act*, or any other Act involving the use of a collector's roll, an area municipality shall provide all information requested by the District Corporation for the purpose of the preparation of the special assessment rolls, and the clerk of the District Corporation, after certifying the special assessment rolls, shall forward the same to the treasurer of the area municipality concerned who shall enter the special assessments on the collector's roll and collect the same in the same manner as taxes and remit the same with the penalties, if any, to the treasurer of the District Corporation.

District
Corporation
may require
area municip-
ality to
collect
moneys
R.S.O. 1980,
cc. 250, 302

(4) Where the District Corporation does not proceed under the *Local Improvement Act* or under section 218 of the *Municipal Act*, the District Corporation may require any area municipality to collect the sums required for financing such supply and distribution of water either by a general rate in the area municipality or by a special rate on an urban service area within such area municipality and such special rate does not require the approval of the Municipal Board.

(5) Notwithstanding any general or special Act, the Municipal Board may hear and determine any application by the District Corporation for approval of any undertaking, work, project or scheme relating to such supply and distribution of water without having regard to the methods by which the District Corporation intends to recover the costs of the undertaking, work, project or scheme for which approval is being sought.

Approval of
O.M.B. to
undertaking,
etc.

(6) Where application is made to the Municipal Board for its approval to the method of recovering the cost of an undertaking, work, project or scheme approved by the Board under subsection (5) and the Board does not approve the application or approves it in part only, the Board may direct the method by which the cost, or the portion of the cost in respect of which the application is not approved, shall be recovered.

Powers of
O.M.B.

(7) Subject to subsection (13), on or after the 1st day of January, 1975, no area municipality shall have or exercise any powers under any Act for such supply and distribution of water, or the financing thereof.

Area municipi-
palities,
no power to
supply and
distribute
water

(8) All waterworks, supply systems, meters, mechanical equipment and all real and personal property of any nature whatsoever used solely for the purpose of the supply and distribution of water and all other assets, liabilities and surpluses or deficits, including reserves, of the local municipalities relating to any facility for such supply and distribution of water in the District Area or for any area municipality is vested in the District Corporation effective the 1st day of January, 1973, and no compensation or damages shall be payable to any area municipality in respect thereof.

Vesting of
property in
District
Corporation

(9) The District Corporation shall pay to the corporation of any area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property assumed by the District Corporation under subsection (8), but nothing in this subsection requires the District Corporation to pay that portion of the amounts of principal and interest that under the *Local Improvement Act* is payable as the owners' share of a local improvement work.

Payments of
principal and
interest to
area municipi-
palities

R.S.O. 1980,
c. 250

(10) If the District Corporation fails to make any payment as required by subsection (9), the area municipality may charge the District Corporation interest at the rate of 12 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Interest to
be charged
by area
municipality

- Agreements (11) With respect to any agreements entered into by any municipality or local board thereof in the District Area respecting such supply and distribution of water, the District Corporation shall, on and after the 1st day of January, 1973, stand in the place and stead of such municipality or local board for all purposes of any such agreement.
- Idem (12) The District Corporation may enter into agreements with any person or municipality, with respect to the matters provided for in this Part.
- Idem (13) The District Corporation may enter into an agreement with any area municipality or local board thereof regarding the recovery of the cost of the supply and distribution of water.
- Entry by clerk on collector's roll (14) The clerk of an area municipality shall, on notice to him by the treasurer of the District Corporation of an amount due in respect of the supply of water and by whom it is due and the lands on which a lien is claimed, enter the amount due upon the collector's roll of the area municipality and subsections 30 (2), (3) and (4) of the *Public Utilities Act* apply, and the moneys collected shall be forwarded to the treasurer of the District Corporation.
- R.S.O. 1980, c. 423
- Existing urban service areas (15) All urban service areas as they exist on the 31st day of December, 1974, pertaining to the purposes of this Part, in an area municipality continue until such time as the District Council otherwise determines. 1974, c. 119, s. 2, *part*.

PART IV

DISTRICT SEWAGE WORKS

- District Corporation responsibility for collection and disposal of sewage **25.**—(1) On and after the 1st day of January, 1975, the District Corporation shall, except as provided in subsection (12), have the sole responsibility for the collection and disposal of all sewage in the District Area, including the establishment, construction, maintenance, operation and financing thereof, and all the provisions of any general Act relating to such collection and disposal of such sewage and the financing thereof by a municipal corporation or a local board thereof and all the provisions of any special Act relating to such collection and disposal of such sewage and the financing thereof by an area municipality or a local board thereof apply with necessary modifications to the District Corporation, except the power to establish a public utilities commission. 1974, c. 119, s. 2, *part*.

(2) The District Corporation may finance the whole or any part of the cost, including the construction, maintenance, operation and debt charges, of collection and disposal of sewage,

Method of
financing

- (a) by imposing a surcharge on the water rate, which does not require the approval of the Municipal Board, and such surcharge shall be collectable in the same manner as water rates and shall be deemed to be a user charge, and no property shall be exempt from such charge by reason only that it is exempt from taxation under section 3 of the *Assessment Act*;

R.S.O. 1980,
c. 31

- (b) by establishing one or more urban service areas with the approval of the Municipal Board and imposing a rate or rates in such area or areas; or

- (c) by any method or methods authorized by law or by any combination thereof. 1974, c. 119, s. 2, *part*; 1976, c. 71, s. 1.

(3) If the District Corporation proceeds under the *Local Improvement Act*, or any other Act involving the use of a collector's roll, an area municipality shall provide all information requested by the District Corporation for the purpose of the preparation of the special assessment rolls, and the clerk of the District Corporation, after certifying the special assessment rolls, shall forward the same to the treasurer of the area municipality concerned who shall enter the special assessments on the collector's roll and collect the same in the same manner as taxes and remit the same with the penalties, if any, to the treasurer of the District Corporation.

Preparation
of special
assessment
rolls and
collection
of special
assessments
R.S.O. 1980,
c. 250

(4) Where the District Corporation does not proceed by imposing a surcharge on the water rate, or under the *Local Improvement Act*, or under section 218 of the *Municipal Act*, the District Corporation may require any area municipality to collect the sums required for financing the collection and disposal of sewage either by a general rate in the area municipality or by a special rate on an urban service area within such area municipality, and such special rate does not require the approval of the Municipal Board.

District
Corporation
may require
area municipi-
pality to
collect
moneys
required
R.S.O. 1980,
cc. 250, 302

(5) Notwithstanding any general or special Act, the Municipal Board may hear and determine any application by the District Corporation for approval of any undertaking, work, project or scheme relating to the collection and disposal of sewage without having regard to the methods by which the District Corporation intends to recover the costs of the

Approval of
O.M.B. to
undertaking,
etc.

undertaking, work, project or scheme for which approval is being sought.

Powers of
O.M.B.

(6) Where application is made to the Municipal Board for its approval to the method of recovering the cost of an undertaking, work, project or scheme approved by the Board under subsection (5) and the Board does not approve the application or approves it in part only, the Board may direct the method by which the cost, or the portion of the cost in respect of which the application is not approved, shall be recovered.

No area
municipality
to collect and
dispose of
sewage

(7) Subject to subsection (15), on and after the 1st day of January, 1975, no area municipality shall have or exercise any powers under any Act for the collection and disposal of sewage, or the financing thereof, except as provided in subsection (12).

Vesting of
property in
District
Corporation

(8) All sewage works, sewer systems and treatment works, including buildings, structures, plant, machinery, equipment, devices, intakes and outfalls or outlets, or other works designed for the interception, collection, settling, treating, dispersing, disposing or discharging of sewage, including all assets and liabilities, surpluses, reserves and deficits of an area municipality relating thereto, except as provided in subsection (12), and all real and personal property of any nature whatsoever used solely for the purpose of the collection and disposal of such sewage in the District Area by any area municipality are vested in the District Corporation on the 1st day of January, 1973, and no compensation or damages shall be payable to any area municipality in respect thereof.

District
Corporation
liability

(9) The District Corporation shall pay to the corporation of any area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of such area municipality in respect of the property assumed by the District Corporation under subsection (8), but nothing in this subsection requires the District Corporation to pay that portion of the amounts of principal and interest that, under the *Local Improvement Act*, is payable as the owners' share of the local improvement work. 1974, c. 119, s. 2, *part*.

R.S.O. 1980,
c. 250

Default

(10) If the District Corporation fails to make any payment as required by subsection (9), the area municipality may charge the District Corporation interest at the rate of 15 per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made. 1979, c. 68, s. 2.

(11) With respect to any agreements entered into by any municipality or local board thereof in the District Area respecting the interception, collecting, settling, treating, dispersing, disposing or discharging of sewage, except as provided for in subsection (12), the District Corporation shall stand in the place and stead of such municipality or local board for all purposes of any such agreement. Agreements

(12) Subject to subsection (13), each area municipality is responsible for land drainage, including storm, surface, overflow, subsurface, or seepage waters or other drainage from land, within the municipality and including the drainage of any road in the municipality that does not form part of the district road system. Area municipality responsibility for storm drainage

(13) The District Corporation may undertake such land drainage, including the assumption of any work or works of an area municipality pertaining thereto, in the whole or any part or parts of the District Area, and where the District Corporation does so the provisions of this Part apply, with necessary modifications, to the establishment, construction, maintenance, operation and financing thereof. District Corporation may undertake land drainage program

(14) The District Corporation may enter into agreements with any person or municipality with respect to the matters provided for in this Part. Agreements

(15) The District Corporation may enter into an agreement with any area municipality or local board thereof regarding the recovery of costs of the collection and disposal of sewage. Idem

(16) All urban service areas as they exist on the 31st day of December, 1974, pertaining to the purposes of this Part, in an area municipality continue until such time as the District Council otherwise determines. 1974, c. 119, s. 2, *part.* Existing urban service areas

PART V

HIGHWAYS

26. In this Part,

Interpretation

- (a) "approved" means approved by the Minister or of a type approved by the Minister;
- (b) "construction" includes reconstruction;
- (c) "maintenance" includes repair;

(d) "Minister" means the Minister of Transportation and Communications;

(e) "Ministry" means the Ministry of Transportation and Communications;

(f) "road authority" means a body having jurisdiction and control of a highway. R.S.O. 1970, c. 131, s. 42; 1972, c. 1, s. 100 (2).

By-laws
establishing
district road
system by
June 30,
1971

27.—(1) The District Council shall pass a by-law establishing a district road system and designating the roads to be included therein as district roads, and such by-law shall be submitted to the Minister not later than the 30th day of June, 1971.

By-law
effective
Jan. 1, 1972

(2) Notwithstanding subsection (10), the by-law passed under subsection (1), as approved by the Lieutenant Governor in Council, shall be effective on the 1st day of January, 1972.

Adding or
removing
roads by
by-law

(3) The District Council may by by-law from time to time add roads to or remove roads from the district road system, including such boundary line roads or portions thereof between the District Area and an adjoining municipality as may be agreed upon between the District Council and the council of the adjoining municipality. R.S.O. 1970, c. 131, s. 43 (1-3).

Transfer of
provincial
highway to
District
Corporation

R.S.O. 1980,
c. 421

(4) The Lieutenant Governor in Council may transfer any highway under the jurisdiction and control of the Ministry within the District Area to the District Corporation and the highway shall for all purposes be deemed to be part of the district road system on such date as is designated by the Lieutenant Governor in Council and to have been transferred under section 29 of the *Public Transportation and Highway Improvement Act*. R.S.O. 1970, c. 131, s. 43 (4); 1971, c. 61, s. 1; 1972, c. 1, s. 1.

Vesting of
roads in
District
Corporation

(5) Every road or part thereof that forms part of the district road system and the jurisdiction and control and the soil and freehold thereof are vested in the District Corporation.

Removal of
roads from
the district
road system

(6) The Lieutenant Governor in Council may remove any road from the district road system.

Roads
removed
from district
road system

(7) Where a road or a part thereof is removed from the district road system, except by reason of it being stopped-up pursuant to section 38, such road or part is there-

upon transferred to and the jurisdiction and control and the soil and freehold thereof is thereupon vested in the area municipality in which it is situate, and the area municipality may sue upon any rights or under any agreements or by-laws in the same manner and to the same extent as the District Corporation in respect of such road.

(8) Notwithstanding subsection (10), where the District Corporation acquires land for the purpose of widening a district road, the land so acquired, to the extent of the designated widening, forms part of the road and is included in the district road system. R.S.O. 1970, c. 131, s. 43 (5-8).

Status of land acquired for widening district road

(9) The District Council shall, from time to time, pass a by-law consolidating all by-laws relating to the district road system. 1980, c. 29, s. 2.

Consolidating by-laws

(10) Every by-law passed under this section shall be submitted to the Minister for approval by the Lieutenant Governor in Council and the Lieutenant Governor in Council may approve the by-law in whole or in part and, where the by-law is approved in part only, it shall be in force and take effect only so far as approved, but it shall not be necessary for the District Council to pass any further by-law amending the original by-law or repealing any part thereof that has not been approved, and every such by-law as approved is in force and has effect after the day named by the Lieutenant Governor in Council. R.S.O. 1970, c. 131, s. 43 (10).

Approval of by-laws by Lieutenant Governor in Council

28. The District Council shall adopt a plan of road construction and maintenance, and from time to time thereafter shall adopt such other plans as may be necessary. R.S.O. 1970, c. 131, s. 44 (1).

Plan of construction and maintenance

29. Where the District Corporation proposes the construction, improvement or alteration of a district road, it shall furnish the Minister with such detailed information as he may require. R.S.O. 1970, c. 131, s. 45.

Information to Minister

30. Where a contribution has been made from any source whatsoever towards an expenditure made under the provisions of section 90 of the *Public Transportation and Highway Improvement Act*, the amount of such contribution shall be deducted from the expenditure in the statement submitted to the Minister unless the Minister otherwise directs. R.S.O. 1970, c. 131, s. 46 (5), *revised*.

Contribution towards expenditures
R.S.O. 1980, c. 421

31. The roads included in the district road system shall be maintained and kept in repair by the District Corporation, and in all cases the Minister shall determine the amount

Expenditures for construction, maintenance or repair

of expenditure that is properly chargeable to road improvement, and his decision is final. R.S.O. 1970, c. 131, s. 47.

Powers over roads in district road system

32. The District Corporation has, in respect of the roads included in the district road system, all the rights, powers, benefits and advantages conferred, and is subject to all liabilities imposed, either by statute, by-law, contract or otherwise upon the corporation of the area municipality or the corporations of two or more area municipalities which had jurisdiction over the roads before they became part of the district road system, and the District Corporation may sue upon such rights or under such contracts or by-laws in the same manner and to the same extent as the area municipality or municipalities might have done if the roads had not become part of the district road system. R.S.O. 1970, c. 131, s. 48.

Sidewalks excepted

33.—(1) The District Corporation is not by reason of a road forming part of the district road system under this Act liable for the construction or maintenance of sidewalks on any road or portion thereof in the district road system, but the area municipality in which such sidewalks are located continues to be liable for the maintenance of such sidewalks and is responsible for any injury or damage arising from the construction or presence of the sidewalks on such road or portion thereof to the same extent and subject to the same limitations to which an area municipality is liable under section 284 of the *Municipal Act* in respect of a sidewalk on a road over which a council has jurisdiction. R.S.O. 1970, c. 131, s. 49 (1).

R.S.O. 1980, c. 302

Area municipalities may construct sidewalks, etc.

(2) An area municipality may construct a sidewalk, storm sewer or other improvement or service on a district road, and the District Corporation may contribute to the cost of such sidewalk, storm sewer, improvement or service, but no such work shall be undertaken by an area municipality without first obtaining the approval of the District Council expressed by resolution. R.S.O. 1970, c. 131, s. 49 (2); 1972, c. 52, s. 3.

How cost provided

(3) The cost of any such sidewalk, storm sewer, improvement or service constructed on a district road may be met out of the general funds of the area municipality or the work may be undertaken in whole or in part as a local improvement under the *Local Improvement Act*.

R.S.O. 1980, c. 250

Area municipalities to conform to requirements and be responsible for damages

(4) An area municipality when constructing such a sidewalk, storm sewer, improvement or service on a district road shall conform to any requirements or conditions im-

posed by the District Council, and is responsible for any injury or damage arising from the construction or presence of the sidewalk, improvement or service on the road. R.S.O. 1970, c. 131, s. 49 (3, 4).

(5) Subsection 107 (4) of the *Public Transportation and Highway Improvement Act* does not apply to a sidewalk constructed on a district road by the council of a township. R.S.O. 1970, c. 131, s. 49 (5); 1971, c. 61, s. 1. R.S.O. 1980, c. 421, not to apply

34.—(1) The District Corporation may construct, install, maintain, or remove any works on a highway, other than a road under the jurisdiction and control of the Ministry, including traffic control devices, for the purpose of altering or regulating the flow of traffic upon entering or leaving a road in the district road system. R.S.O. 1970, c. 131, s. 50 (1); 1972, c. 1, s. 1. Installation of traffic control devices

(2) The District Corporation may relocate, alter or divert any public road, other than a road under the jurisdiction and control of the Ministry, entering or touching upon or giving access to a road in the district road system. R.S.O. 1970, c. 131, s. 50 (2); 1972, c. 1, s. 1. Relocation of intersecting roads

(3) Where, in relocating, altering or diverting a public road under subsection (2), the District Corporation constructs a new road in lieu of the public road, the District Corporation may close the public road at the point of intersection with the district road and may vest the new road and the soil and freehold and jurisdiction and control thereof in the area municipality in which it is situate. Idem

(4) Where the District Corporation constructs a sidewalk, storm sewer, improvement or service on a road under the jurisdiction and control of an area municipality, the area municipality may contribute to the cost of such sidewalk, storm sewer, improvement or service and the work may be undertaken in whole or in part under the *Local Improvement Act*. R.S.O. 1970, c. 131, s. 50 (3, 4). Construction of storm sewer, etc., on area municipality road

R.S.O. 1980, c. 250

35. Where a district road intersects a road that is under the jurisdiction and control of an area municipality, the continuation of the district road to its full width across the road so intersected is a part of the district road system. R.S.O. 1970, c. 131, s. 51. Intersection of other roads by district roads

36. When land abutting on a district road is dedicated for, or apparently for, widening the district road, the Dedication of lands abutting regional roads for widening purposes

land so dedicated is part of the district road and the jurisdiction and control and the soil and freehold thereof is vested in the District Corporation subject to any rights in the soil reserved by the person who dedicated the land. R.S.O. 1970, c. 131, s. 52.

New roads

R.S.O. 1980,
c. 302

37. The District Council may pass by-laws for establishing and laying out new roads and for amending the by-law passed under section 27 by adding such new roads to the district road system, and the provisions of the *Municipal Act* with respect to the establishment and laying out of highways by municipalities apply with necessary modifications. R.S.O. 1970, c. 131, s. 53.

Powers and liabilities of District Corporation

R.S.O. 1980,
cc. 302, 198

38. With respect to the roads in the district road system and the regulation of traffic thereon, the District Corporation has all the powers conferred, and is subject to all the liabilities imposed, upon the council or corporation of a city by the *Municipal Act*, the *Highway Traffic Act* and any other Act with respect to highways. R.S.O. 1970, c. 131, s. 54.

Erection of gasoline pump and advertising device near district road

39.—(1) The District Council may by by-law prohibit or regulate the placing or erecting of,

(a) any gasoline pump within forty-five metres of any limit of a district road; and

(b) any sign, notice or advertising device within 400 metres of any limit of a district road. R.S.O. 1970, c. 131, s. 55 (1); 1978, c. 87, s. 36 (1).

Permits

(2) A by-law passed under this section may provide for the issuing of permits for the placing or erecting of any gasoline pump, sign, notice or advertising device and may prescribe the form, terms and conditions thereof and the fees to be paid therefor. R.S.O. 1970, c. 131, s. 55 (2).

By-laws of area municipalities regulating traffic

40.—(1) No by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality, except a by-law for the regulation of parking, shall come into force until it has been approved by resolution of the District Council. R.S.O. 1970, c. 131, s. 56 (1); 1972, c. 52, s. 4; 1976, c. 55, s. 3 (1).

District Council may approve by-law in whole or in part

(2) A by-law submitted for approval of the District Council in compliance with subsection (1) may be approved

in whole or in part and, where part only of a by-law is approved, that part only shall become operative.

(3) The District Council may withdraw its approval to any by-law or any part thereof by notice sent by registered mail to the clerk of the area municipality and such by-law or part thereof shall be deemed to be repealed twenty-one days after the sending of the notice. 1976, c. 55, s. 3 (2).

Withdrawal
of
approval

(4) All signal-light traffic control devices heretofore or hereafter erected on a highway under the jurisdiction and control of an area municipality shall be operated, or erected and operated, in the manner prescribed by by-law of the District Council, and the District Council may delegate any of its powers in respect of the operation of such devices to an officer of the District Corporation designated in the by-law.

Signal-light
devices

(5) The District Corporation may contribute towards the cost of the erection of signal-light traffic control devices erected by an area municipality. R.S.O. 1970, c. 131, s. 56 (2, 3).

Contribu-
tion toward
cost of
signal-lights

(6) Subject to the *Highway Traffic Act*, the District Council may pass by-laws to regulate traffic on any highway under the jurisdiction and control of an area municipality for a distance of thirty metres on either side of the limit of a district road, and, where there is any conflict between such a by-law and a by-law of an area municipality, the by-law passed under this subsection prevails to the extent of such conflict. R.S.O. 1970, c. 131, s. 56 (4); 1978, c. 87, s. 36 (2).

Traffic
control
within
thirty metres
of district
roads
R.S.O. 1980;
c. 198

41. The District Council may by by-law authorize agreements between the District Corporation and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highway upon such terms and conditions as may be agreed and for contributing to the whole or any part of the cost thereof, and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such considerations and upon such terms and conditions as may be agreed. R.S.O. 1970, c. 131, s. 57.

Agreement
for
pedestrian
walks

42.—(1) Sections 292 and 294 of the *Municipal Act* do not apply to a bridge or highway crossing or forming a boundary between the District Area and an adjoining

Disputes
as to main-
tenance,
etc., of
bridges and
highways
R.S.O. 1980,
c. 302

municipality where such bridge or highway is included in the district road system and in the road system of the municipality.

Idem

(2) When there is a difference between the District Council and the council of a municipality in respect of any such bridge or highway as to the corporation upon which the obligation rests for the constructing or maintaining of the bridge or highway, or as to the proportions in which the corporations should respectively contribute thereto, or where the District Council and the council of the municipality are unable to agree as to any action, matter or thing to be taken or done in respect of such bridge or highway, every such difference shall be determined by the Municipal Board upon an application by the District Corporation or the corporation of the municipality.

Hearing by
O.M.B.

(3) The Municipal Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality and of the District Corporation, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or highway, and the Municipal Board may make such order with respect to the same as it may consider just and proper, and may by the order fix and determine the amount or proportion that each municipality shall pay or contribute towards the building and maintaining of such bridge or highway.

Term of
order

(4) An order made by the Municipal Board under this section is binding upon the municipalities for such period as the Municipal Board may determine, and is final and conclusive. R.S.O. 1970, c. 131, s. 58.

Boundary
bridges
between area
municipalities
R.S.O. 1980,
c. 302

43. Clause 261 (1) (b) of the *Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between area municipalities, and the councils of the area municipalities on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the district road system. R.S.O. 1970, c. 131, s. 59.

Boundary
bridges
between
District
Area and
adjoining
municipality

44. Section 276 of the *Municipal Act* does not apply to a bridge over a river, stream, pond or lake forming or crossing a boundary line between the District Area and an adjoining municipality, and the councils of the area municipality and the adjoining local municipality on either side of such boundary line have joint jurisdiction over every such bridge that is not included in the district road system. R.S.O. 1970, c. 131, s. 60.

45.—(1) The District Council has, with respect to all land Restrictions
lying within a distance of forty-five metres from any limit of a
district road, all the powers conferred on the council of a local
municipality by section 39 of the *Planning Act*. R.S.O. 1970, R.S.O. 1980,
c. 131, s. 61 (1); 1978, c. 87, s. 36 (3). c. 379

(2) In the event of conflict between a by-law passed Conflict
under subsection (1) by the District Council and a by-law with local
passed under section 39 of the *Planning Act* or a predecessor by-law
of such section by the council of a local municipality that
is in force in the area municipality in which the land is
situate, the by-law passed by the District Council prevails
to the extent of such conflict. R.S.O. 1970, c. 131, s. 61 (2).

46.—(1) The District Council may by by-law designate Controlled-
any road in the district road system, or any portion thereof, access roads
as a controlled-access road.

(2) Subject to the approval of the Municipal Board, the Closing
District Council may by by-law close any municipal road municipal
that intersects or runs into a district controlled-access road. roads

(3) The Municipal Board may direct that notice of any Notice of
application for approval of the closing of a road under this application
section shall be given at such time, in such manner and to for approval
such persons as the Municipal Board may determine, and for closing
may further direct that particulars of objections to the road
closing shall be filed with the Municipal Board and the
District Corporation within such time as the Municipal Board
shall direct.

(4) Upon the hearing of the application for approval of Order of
the closing of a road, the Municipal Board may make such O.M.B.
order as it considers proper refusing its approval or granting
its approval upon such terms and conditions as it considers
proper, and any order of the Municipal Board approving of
the closing of a road may contain provisions,

- (a) determining the portion or portions of the road
that shall be closed;
- (b) providing for the payment of the costs of any per-
son appearing on such application and fixing the
amount of such costs; and
- (c) providing for the doing of such other acts as in
the circumstances it considers proper.

(5) Upon the approval of the Municipal Board being so Closing
obtained but subject to the provisions of the order of the road
Municipal Board made on the application for such approval,
the District Corporation may do all such acts as may be

necessary to close the road in respect of which the application is made.

Idem

(6) Where, at any time after making application for the approval of the Municipal Board of the closing of a road, the District Corporation discontinues its application or, having obtained such approval, does not proceed with the closing of the road, the Municipal Board may, upon the application of any person whose land would be injuriously affected by the closing of the road and who has appeared upon such application for approval, make such order as to costs against the District Corporation as it considers proper and may fix the amount of such costs.

Appeal

(7) Any person who claims to be injuriously affected by the closing of a road may, by leave of the Divisional Court, appeal to that court from any order of the Municipal Board approving the closing of such road, and the District Corporation may, upon like leave, appeal from any order of the Municipal Board made on an application under this section.

Leave to appeal

(8) The leave may be granted on such terms as to the giving of security for costs and otherwise as the court may consider just.

Practice and procedure on appeal

(9) The practice and procedure as to the appeal and matters incidental thereto shall be in accordance with the rules of court.

R.S.O. 1980, c. 347, s. 95 not to apply

(10) Section 95 of the *Ontario Municipal Board Act* does not apply to any appeal under this section. R.S.O. 1970, c. 131, s. 62.

Private roads, etc., opening upon controlled-access roads

47.—(1) The District Council may pass by-laws prohibiting or regulating the construction or use of any private road, entrance-way, structure or facility as a means of access to a district controlled-access road. 1979, c. 68, s. 3.

Notice

(2) The District Corporation may give notice to the owner of any land requiring him to close up any private road, entranceway, structure, or facility constructed or used as a means of access to a district controlled-access road in contravention of a by-law passed under subsection (1).

Service of notice

(3) Every notice given under subsection (2) shall be in writing and shall be served personally or by registered mail, and in the case of service by registered mail shall be deemed to have been received on the second day following the mailing thereof.

(4) Where the person to whom notice is given under subsection (2) fails to comply with the notice within thirty days after its receipt, the District Council may by resolution direct any officer, employee or agent of the District Corporation to enter upon the land of such person and do or cause to be done whatever may be necessary to close up the private road, entranceway, structure or facility as required by the notice. Failure to comply with notice

(5) Every person who fails to comply with a notice given under subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a second or subsequent offence. Offence

(6) Where a notice given under subsection (2) has been complied with, no compensation is payable to the owner of the land unless the private road, entranceway, structure or facility constructed or used as a means of access to a district controlled-access road was constructed or used, as the case may be, Compensation

(a) before the day on which the by-law designating the road as a district controlled-access road became effective; or

(b) in compliance with a by-law passed under subsection (1), in which case the making of compensation is subject to any provisions of such by-law. R.S.O. 1970, c. 131, s. 63 (2-6).

48.—(1) Where the District Corporation adds to the district road system any road in an area municipality, no compensation or damages shall be payable to the area municipality in which it was vested. District liability when road added

(2) Where a road has been added to the district road system by a by-law passed under subsection 27 (3), the District Corporation shall thereafter pay to the area municipality before the due date all amounts of principal and interest becoming due upon any outstanding debt of the area municipality in respect of such road, but nothing in this subsection requires the District Corporation to pay that portion of the amounts of principal and interest that under the *Local Improvement Act* is payable as the owners' share of a local improvement work. R.S.O. 1970, c. 131, s. 64 (1, 2). Idem R.S.O. 1980, c. 250

(3) If the District Corporation fails to make any payment on or before the due date required by subsection (2), the area municipality may charge the District Corporation interest at the rate of 15 Default

per cent per annum, or such lower rate as the council of the area municipality determines, from such date until payment is made. 1979, c. 68, s. 4.

Settling
of doubts

(4) In the event of any doubt as to whether any outstanding debt or portion thereof is a debt in respect of the road added to the district road system, the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 131, s. 64 (4).

Stopping up
highways

49.—(1) Where an area municipality intends to stop up a highway or part of a highway, it shall notify by registered mail the District Corporation of its intention.

Agreement

(2) If the District Council objects to such stopping up, it shall notify the council of the area municipality by registered mail within sixty days of the receipt of the notice required under subsection (1) and the highway or part thereof shall not be stopped up except by agreement between the area municipality and the District Council and failing agreement the Municipal Board, upon application, may determine the matter and its decision is final. R.S.O. 1970, c. 131, s. 65.

Approval
required to
intersect
district road

(3) No area municipality shall open up, establish or assume for public use any highway which intersects with or enters upon any highway in the district road system without the prior written approval of the District Corporation. 1973, c. 146, s. 2.

Application
of
R.S.O. 1980,
c. 421

50. Sections 102, 104, 106, 109 and 112 of the *Public Transportation and Highway Improvement Act* apply with necessary modifications with respect to any road in the district road system. R.S.O. 1970, c. 131, s. 67; 1971, c. 61, s. 1.

PART VI

PLANNING

Planning
area

R.S.O. 1980,
c. 379

51.—(1) On and after the 1st day of January, 1975, the District Area shall be a planning area for the purposes of the *Planning Act*, and shall be known as the Muskoka Planning Area.

District
Council to
be planning
board

(2) The District Council shall be the planning board of the Muskoka Planning Area. 1974, c. 119, s. 3 (1).

(3) All planning areas and subsidiary planning areas that are included in the Muskoka Planning Area, together with the boards thereof, are dissolved on the 31st day of December, 1970. R.S.O. 1970, c. 131, s. 68 (3). Planning areas dissolved

(4) No area municipality shall exercise any powers under sections 12, 13, 14, 15 and 16 of the *Planning Act*. 1974, c. 128, s. 1. Area municipalities not to exercise powers under R.S.O. 1980, c. 379, ss. 12-16

(5) Nothing in subsection (3) affects any official plan in effect in any part of the District Area. R.S.O. 1970, c. 131, s. 68 (5); 1974, c. 119, s. 3 (3). Proviso

(6) When the Minister of Housing has approved an official plan adopted by the District Council, every official plan and every by-law passed under section 39 of the *Planning Act* or a predecessor thereof then in effect in the planning area affected thereby shall be amended forthwith to conform therewith. R.S.O. 1970, c. 131, s. 68 (6); 1974, c. 119, s. 3 (4). Effect of official plan

52.—(1) The District Council shall investigate and survey the physical, social and economic conditions in relation to the development of the Muskoka Planning Area and may perform such other duties of a planning nature as may be referred to it by any council having jurisdiction in the Muskoka Planning Area, and without limiting the generality of the foregoing it shall, Planning duties of District Council

- (a) prepare maps, drawings, texts, statistical information and all other material necessary for the study, explanation and solution of problems or matters affecting the development of the Muskoka Planning Area;
- (b) hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of the Muskoka Planning Area in determining the solution of problems or matters affecting the development of the Muskoka Planning Area; and
- (c) consult with any local board having jurisdiction within the Muskoka Planning Area. R.S.O. 1970, c. 131, s. 69 (1).

(2) The District Council, before the 31st day of December, 1974, shall prepare, adopt and forward to the Minister of Housing for approval an official plan for the District Area. R.S.O. 1970, c. 131, s. 69 (2); 1974, c. 119, s. 4 (1). Official plan

District
Council
to consult
area municipi-
palities

(3) During the course of preparation of the official plan for the District Area, the District Council shall, in respect of that part of the official plan that affects each area municipality, consult with the council of that area municipality, and the completed draft plan shall be referred for comment to the council of each area municipality prior to adoption by the District Council. 1974, c. 119, s. 4 (2).

Planning
staff

(4) The District Council shall appoint such planning staff as may be considered necessary.

Advisory
committee

(5) The District Council and the council of any area municipality may each appoint such advisory planning committees as it considers necessary. R.S.O. 1970, c. 131, s. 69 (3, 4).

District
Corporation
deemed
municipality
under
R.S.O. 1980,
c. 379

(6) Subject to this Part, the District Corporation shall be deemed to be a municipality and the District Council a planning board for the purposes of section 1, subsections 2 (4), (6) and (7), sections 5, 13, 14, 15, 16, 17, 19, 20, 21, 25, 26 and 27, subsection 29 (25), sections 36, 50 and 51 of the *Planning Act* and, where the District Council meets in respect of matters pertaining to planning for the purposes aforesaid, no separate meeting of the Council as a planning board is required. 1978, c. 34, s. 7.

Idem

(7) The District Council shall be deemed to be a county for the purposes of section 47 of the *Planning Act*.

Agreements
re plans of
subdivision

(8) The District Corporation may enter into agreements with area municipalities or persons relating to approval of plans of subdivision.

Agreements
re special
studies

(9) The District Corporation, with the approval of the Minister, may enter into agreements with any governmental authority, or any agency thereof created by statute, for the carrying out of studies relating to the Muskoka Planning Area or any part thereof. R.S.O. 1970, c. 131, s. 69 (6-8).

Committees
of adjust-
ment

(10) All committees of adjustment heretofore constituted by the council of a local municipality in the Muskoka Planning Area are dissolved on the 31st day of December, 1970, and the council of each area municipality shall by by-law constitute and appoint a committee of adjustment under section 48 of the *Planning Act*. R.S.O. 1970, c. 131, s. 69 (10).

Application
of
R.S.O. 1980,
c. 379

53. Except as provided in this Part, the provisions of the *Planning Act* apply. R.S.O. 1970, c. 131, s. 70.

PART VII

HEALTH AND WELFARE SERVICES

54.—(1) The District Corporation shall be deemed to be a city for all the purposes of the provisions of the *Public Hospitals Act* and the *Private Hospitals Act* respecting hospitalization and burial of indigent persons and their dependants, and no area municipality has any liability under such provisions.

Liability for hospitalization of indigents
R.S.O. 1980, cc. 410, 389

(2) The District Corporation is liable for the hospitalization and burial, after the 31st day of December, 1970, of an indigent person or his dependant who was in hospital on the 31st day of December, 1970, and in respect of whom any local municipality within the District Area was liable because the indigent person was a resident of such local municipality.

Existing liabilities transferred

(3) Nothing in subsection (2) relieves any such local municipality from any liability in respect of hospitalization or burials before the 1st day of January, 1971. R.S.O. 1970, c. 131, s. 71 (1-3).

Proviso

55. The District Council may pass by-laws for granting aid for the construction, erection, establishment, acquisitions, maintenance, equipping and carrying on the business of public hospitals including municipal hospitals, public sanatoria, municipal isolation hospitals and other health care facilities in the District Area and may issue debentures therefor. R.S.O. 1970, c. 131, s. 72.

Aid to hospitals

56. On and after the 1st day of January, 1971, the District Area shall continue to be part of the health unit established under *The Public Health Act*, being chapter 377 of the Revised Statutes of Ontario, 1970, known as the Muskoka-Parry Sound Health Unit. R.S.O. 1970, c. 131, s. 73.

District Area part of Muskoka-Parry Sound Health Unit

57. The representation of the District Area on the board of health of the Muskoka-Parry Sound Health Unit shall comprise one member of the council of each area municipality, who is also a member of the District Council, appointed by the District Council. R.S.O. 1970, c. 131, s. 74.

Representation on board of health

58.—(1) For the purposes of the following Acts, the District Corporation shall be deemed to be a city and no area municipality shall be deemed to be a municipality:

District Corporation deemed city under R.S.O. 1980, cc. 21, 205, 463, 527

1. *Anatomy Act*.

2. *Mental Hospitals Act*.

3. *Sanatoria for Consumptives Act.*4. *War Veterans Burial Act.*

District
Corporation
deemed
county under
R.S.O. 1980,
cc. 111, 188,
200

(2) For the purposes of the following Acts, the District Corporation shall be deemed to be a county and no area municipality shall be deemed to be a municipality:

1. *Day Nurseries Act.*2. *General Welfare Assistance Act.*3. *Homemakers and Nurses Services Act.* R.S.O. 1970, c. 131, s. 75.

Liability
respecting
homes for
the aged
R.S.O. 1980,
c. 203

59. The District Corporation shall be deemed to be a county for the purposes of the *Homes for the Aged and Rest Homes Act*, and no area municipality has any authority as to the establishment, erection and maintenance of a home for the aged under such Act. R.S.O. 1970, c. 131, s. 76 (1).

Dissolution
of Board of
Management,
district
home vested
in District
Corporation

60.—(1) On the 1st day of January, 1971, the District of Muskoka Homes for the Aged Board of Management is dissolved and all the assets and liabilities thereof, including the home for the aged known as The Pines and all real and personal property used for the purposes of such home are vested in the District Corporation, and no compensation or damages shall be payable to such Board of Management in respect thereof.

Residents of
Nipissing
Home for
the Aged

(2) The District Corporation shall pay to the Board of Management of Nipissing Home for the Aged the cost of maintenance in the Nipissing Home for the Aged, incurred after the 31st day of December, 1970, of every resident of that home who was admitted thereto due to residence in an area that becomes part of any area municipality.

Amount of
maintenance
payment

(3) The amount payable by the District Corporation under subsection (2) shall be such as may be agreed upon or, failing agreement, as may be determined by the Municipal Board. R.S.O. 1970, c. 131, s. 77.

Area
municipality
not deemed
municipality
under
R.S.O. 1980,
c. 66

61. No area municipality shall be deemed to be a municipality for the purposes of the *Child Welfare Act*. R.S.O. 1970, c. 131, s. 78, *revised*.

Liability
under order
made under
R.S.C. 1970,
c. J-3

62. Where an order is made under subsection 20 (2) of the *Juvenile Delinquents Act* (Canada) upon an area municipality, such order shall be deemed to be an order upon the District Corporation, and the sums of money required to be paid under

such order shall be paid by the District Corporation and not by the area municipality. R.S.O. 1970, c. 131, s. 80.

63. Every area municipality and every officer or employee thereof shall, at the request of the officers of the District Corporation who are responsible for the administration of the Acts referred to in this Part, furnish forthwith to such officers any information they may require for the purposes of this Part. R.S.O. 1970, c. 131, s. 81. Information

64. In the event that there is any doubt as to whether the District Corporation is liable under this Part in respect of the liabilities imposed herein, the matter may be settled by agreement between the municipalities concerned or, failing agreement, may be determined by the Municipal Board. R.S.O. 1970, c. 131, s. 82. Adjustments

65. The District Corporation may grant aid to approved corporations established under the *Homes for Retarded Persons Act*, and may enter into agreements with any of such corporations with respect to the construction, operation and maintenance of homes for retarded persons. R.S.O. 1970, c. 131, s. 83. Grants to approved corporations under R.S.O. 1980, c. 201

PART VIII

POLICE

66.—(1) On and after the 1st day of January, 1971, the *Police Act*, except section 70 and sections 202 and 203 of the *Municipal Act* do not apply to any area municipality. Application of R.S.O. 1980, cc. 381, 302

(2) The District Corporation shall be deemed to be a municipality for the purposes of section 70 of the *Police Act*. District Corporation deemed municipality for R.S.O. 1980, c. 381, s. 70

(3) On and after the 9th day of May, 1970, the *Police Act*, except section 70, and sections 202 and 203 of the *Municipal Act* do not apply to the Town of Gravenhurst. R.S.O. 1970, c. 131, s. 84. Application to Town of Gravenhurst

67. All police functions, other than the enforcement of by-laws of the District Council or of the council of any area municipality, shall, on and after the 1st day of January, 1971, be undertaken by the Ontario Provincial Police in the District Area. R.S.O. 1970, c. 131, s. 85. O.P.P. to undertake police functions in District Area

68. All police functions, other than the enforcement of municipal by-laws, shall, on and after the 9th day of May, 1970, be undertaken by the Ontario Provincial Police in the Town of Gravenhurst. R.S.O. 1970, c. 131, s. 86. O.P.P. to undertake police functions in 1970 in Town of Gravenhurst

Liaison
Committee

69. The District Council shall establish a committee of seven persons consisting of the chairman and one representative from the council of each area municipality to be known as the Muskoka District Police Liaison Committee which shall meet at least once every three months with the representatives of the Ontario Provincial Police to discuss police matters within the District Area. 1976, c. 55, s. 4.

Application
of s. 23

70. The provisions of subsections 23 (8) to (11) apply to every member of the police forces of the towns of Bracebridge, Gravenhurst and Huntsville. R.S.O. 1970, c. 131, s. 88.

PART IX

FINANCES

Interpre-
tation

71.—(1) In this Part,

(a) “merged area” means any area so designated by the Minister for the purposes of this Part;

R.S.O. 1980,
c. 31

(b) “rateable property” includes business and other assessment made under the *Assessment Act*. R.S.O. 1970, c. 131, s. 89.

Idem

(2) In sections 74, 76 and 77, “Ministry” means the Ministry of Revenue. 1972, c. 52, s. 6; 1972, c. 1, s. 1.

Investment
of money not
immediately
required
R.S.O. 1980,
c. 302

72.—(1) Section 169 of the *Municipal Act* applies with necessary modifications to the District Corporation. R.S.O. 1970, c. 131, s. 90.

Deemed
municipality
for purposes
of
R.S.O. 1980,
c. 102, s. 35

(2) The District Corporation shall be deemed to be a municipality for the purposes of section 35 of the *Credit Unions and Caisses Populaires Act*. 1979, c. 68, s. 5.

YEARLY ESTIMATES AND LEVIES

Yearly
estimates

73.—(1) The District Council shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the District Corporation, including the sums required by law to be provided by the District Council for any local board of the District Corporation, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Ministry may from time to time prescribe. R.S.O. 1970, c. 131, s. 91 (1); 1972, c. 1, s. 1.

(2) In preparing the estimates, the District Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year and for such reserves within such limits as to type and amount as the Ministry may approve. R.S.O. 1970, c. 131, s. 91 (2); 1972, c. 1, s. 1.

Allowance to be made in estimates

(3) Section 33 of the *Assessment Act* and section 465 of the *Municipal Act* apply with necessary modifications to the District Corporation. 1972, c. 52, s. 7.

Application of R.S.O. 1980, cc. 31, 302

74.—(1) The District Council in each year shall levy against the area municipalities a sum sufficient,

Levy on area municipalities

(a) for payment of the estimated current annual expenditures as adopted; and

(b) for payment of all debts of the District Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the District Corporation is liable under this Act.

(2) The District Council shall ascertain and by by-law direct what portion of the sum mentioned in subsection (1) shall be levied against and in each area municipality.

Apportionment

(3) Subject to subsection (9), all amounts levied under subsection (1) shall be apportioned among the area municipalities in the proportion that the whole rateable property in each area municipality bears to the whole rateable property in the District Area, according to the last revised assessment rolls. R.S.O. 1970, c. 131, s. 92 (1-3).

Idem

(4) The Ministry shall revise and weight the last revised assessment rolls of the area municipalities and, for the purpose of subsection (3), the last revised assessment rolls for the area municipalities as so revised and weighted by the Ministry shall be deemed to be the last revised assessment rolls of the area municipalities. R.S.O. 1970, c. 131, s. 92 (4); 1972, c. 1, s. 1; 1974, c. 119, s. 6 (1).

Weighted assessment

(5) Upon completion by the Ministry of the revision and weighting of assessment, the Ministry shall notify the District Corporation and each of the area municipalities of the revised and weighted assessment of each area municipality. R.S.O. 1970, c. 131, s. 92 (6); 1972, c. 1, s. 1; 1974, c. 119, s. 6 (3).

Copy to District Corporation and area municipality

Appeal

(6) If any area municipality is not satisfied with the assessment as revised and weighted by the Ministry, the area municipality may appeal from the decision of the Ministry by notice in writing to the Municipal Board at any time within thirty days after the notice of the revised and weighted assessment was sent to the area municipality by the Ministry. R.S.O. 1970, c. 131, s. 92 (7); 1972, c. 1, s. 1; 1974, c. 119, s. 6 (4).

Idem

(7) Every notice of revision and weighting made under this section shall set out the time within which an appeal may be made to the Municipal Board with respect to such revision and weighting. R.S.O. 1970, c. 131, s. 92 (8); 1974, c. 119, s. 6 (5).

Amendment
of by-law
where
necessary
following
appeal

(8) Where the last revised assessment of the area municipality has been revised and weighted by the Ministry and has been appealed, the District Council shall forthwith after the decision of the Municipal Board on such appeal, amend, if required, the by-law passed under subsection (2) so as to make the apportionments among the area municipalities according to the assessments as revised by the Municipal Board upon such appeal, and,

(a) where the moneys levied against an area municipality are thereby increased, the treasurer of the area municipality shall pay the amount of the increase to the treasurer of the District Corporation; and

(b) where the moneys levied against an area municipality are thereby decreased, the treasurer of the area municipality shall be liable to pay the treasurer of the District Corporation only the reduced levy or, if the original levy has been paid by the area municipality, the treasurer of the District Corporation shall pay the amount of the decrease to the treasurer of the area municipality. R.S.O. 1970, c. 131, s. 92 (9); 1972, c. 1, s. 1; 1974, c. 119, s. 6 (6).

Fixed assess-
ments, etc.,
not to apply

(9) The apportionment of the levy among the area municipalities as provided for in subsections (2) and (3) shall be based on the full value of all rateable property, and notwithstanding any general or special Act, no fixed assessment other than a fixed assessment under section 22 of the *Assessment Act* or partial or total exemption from assessment or taxation applies thereto, except as provided in section 3 of the *Assessment Act*. R.S.O. 1970, c. 131, s. 92 (10).

(10) The assessment upon which the levy shall be apportioned among the area municipalities shall include the valuations of all properties for which payments in lieu of taxes, which include a payment in respect of district levies, are paid by the Crown in right of Canada or any province or any board, commission, corporation or any other agency thereof or Ontario Hydro to any area municipality, and the amount by which the assessment of an area municipality shall be deemed to be increased by virtue of payments under sections 160 and 161 of the *Municipal Act*, section 4 of the *Provincial Parks Municipal Tax Assistance Act* and section 8 of the *Ontario Unconditional Grants Act*.

Assessment to include valuations on properties for which payments in lieu of taxes paid, etc.

R.S.O. 1980, c. 302, 402, 359

(11) Within fourteen days of a request by the Ministry of Revenue, the clerk of an area municipality shall transmit to the said Ministry a statement of the payments referred to in subsection (10) and the said Ministry shall revise and weight the valuations of these payments and shall notify the District Corporation and the appropriate area municipality of such valuations. 1974, c. 119, s. 6 (7).

Valuation of properties

(12) One by-law or several by-laws for making the levies may be passed as the District Council may consider expedient.

Levy by-laws

(13) Subject to subsections 36 (4), (5) and (6) of the *Assessment Act*, in each area municipality the district levy shall be calculated and levied upon the whole rateable property rateable for such purpose within such area municipality according to the last revised assessment roll thereof.

District levy R.S.O. 1980, c. 31

(14) All moneys levied against an area municipality under the authority of this section shall be deemed to be taxes and are a debt of the area municipality to the District Corporation and the treasurer of every area municipality shall pay the moneys so levied to the treasurer of the District Corporation at the times and in the amounts specified by the by-law of the District Council mentioned in subsection (2). R.S.O. 1970, c. 131, s. 92 (13-15).

Payment

(15) If an area municipality fails to make any payment as provided in the by-law, interest shall be added at the rate of 15 per cent per annum, or such lower rate as the District Council determines, from the date payment is due until it is made. 1979, c. 68, s. 6.

Default

75.—(1) The Ministry of Revenue shall revise and weight each part of the last revised assessment roll of the area municipalities that relates to a merged area and each such

Assessment of merged areas

part of the last revised assessment roll of each of the area municipalities as revised and weighted is final and binding.

Notice

(2) Upon completion by the Ministry of Revenue of the revision and weighting of assessment in an area municipality under subsection (1), the Ministry of Revenue shall notify the area municipality of the revised and weighted assessment.

Apportionment among merged areas
R.S.O. 1980,
cc. 302, 31

(3) The net district levy and the sums adopted in accordance with section 164 of the *Municipal Act* for all purposes, excluding school purposes, levied against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total weighted assessment of each merged area bears to the total weighted assessment of the area municipality, both according to the last revised assessment roll as weighted by the Ministry of Revenue under subsection (1), and subsection 26 (9) of the *Assessment Act* shall not apply to any apportionment by an area municipality under this subsection. 1974, c. 119, s. 7, *part, revised*.

Levy by
District
Council
before
estimates
adopted

76.—(1) Notwithstanding section 74, the District Council may in any year before the adoption of the estimates for that year, levy against each of the area municipalities a sum not exceeding 50 per cent of the levy made by the District Council in the preceding year against that area municipality and subsections 74 (13) and (14) apply to such levy.

Levy under
s. 74 to be
reduced

(2) The amount of any levy made under subsection (1) shall be deducted from the levy made under section 74.

Levy by area
municipality
before
estimates
adopted

(3) Notwithstanding section 75, the council of an area municipality may in any year before adoption of the estimates for that year, levy in each of the merged areas in the area municipality, on the whole of the assessment for real property including business assessment in the merged area according to the last revised assessment roll, a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the merged area in the preceding year on residential real property of public school supporters.

Levy under
s. 75 to be
reduced

(4) The amount of any levy under subsection (3) shall be deducted from the amount of the levy made under section 75.

Application of
R.S.O. 1980,
c. 302, s. . . .

(5) Subsection 159 (5) of the *Municipal Act* applies to levies made under this section. 1974, c. 119, s. 7, *part*.

Rates under
R.S.O. 1980,
c. 129

77.—(1) For the purpose of levying taxes under Part IV of the *Education Act*, the merged areas of an area municipality shall be deemed to be municipalities, and the council of the

area municipality shall be deemed to be the council of each such merged area. R.S.O. 1970, c. 131, s. 96 (1).

(2) The amount required to be levied and collected by an area municipality for public school purposes on commercial assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total commercial assessment for public school purposes in each merged area bears to the total commercial assessment for public school purposes in the area municipality. R.S.O. 1970, c. 131, s. 96 (2); 1974, c. 119, s. 8 (1).

Rates for
public school
purposes on
commercial
assessment
R.S.O. 1980,
c. 129

(3) The amount required to be levied and collected by an area municipality for public school purposes on residential assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total residential assessment for public school purposes in each merged area bears to the total residential assessment for public school purposes in the area municipality. R.S.O. 1970, c. 131, s. 96 (3); 1974, c. 119, s. 8 (2).

Rates for
public school
purposes on
residential
assessment

(4) The amount required to be levied and collected by an area municipality for secondary school purposes on commercial assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total commercial assessment for secondary school purposes in each merged area bears to the total commercial assessment for secondary school purposes in the area municipality. R.S.O. 1970, c. 131, s. 96 (4); 1974, c. 119, s. 8 (3).

Rates for
secondary
school
purposes on
commercial
assessment

(5) The amount required to be levied and collected by an area municipality for secondary school purposes on residential assessment determined as a result of the application of section 222 of the *Education Act* shall be apportioned among the merged areas in the ratio that the total residential assessment for secondary school purposes in each merged area bears to the total residential assessment for secondary school purposes in the area municipality. R.S.O. 1970, c. 131, s. 96 (5); 1974, c. 119, s. 8 (4).

Rates for
secondary
school
purposes on
residential
assessment

(6) Notwithstanding subsections (2), (3), (4) and (5), where in any year a regulation is in force under section 214 of the *Education Act*, the apportionments referred to in the said subsections (2), (3), (4) and (5) shall be made in accordance with the regulation. R.S.O. 1970, c. 131, s. 96 (6).

Regulations
under
R.S.O. 1980,
c. 129
to apply

78. The Minister may provide from time to time by order that, in the year or years and in the manner specified

Transitional
adjustments

in the order, the council of any area municipality shall levy, on the whole of the assessment for real property and business assessment according to the last revised assessment roll in any specified merged area or areas, rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for the provisions of this section. R.S.O. 1970, c. 131, s. 97.

URBAN SERVICES

Interpre-
tation

79.—(1) In this section,

(a) “cost” includes the cost of constructing, equipping, extending, enlarging, altering and replacing public works for the purpose of providing an urban service, the cost of managing, operating and maintaining such urban service, the cost of any land, buildings and equipment necessary for providing an urban service, and the cost of the issue and sale of debentures for an urban service and any discount allowed to the purchases of them;

(b) “urban service” means,

(i) land drainage,

(ii) the collection and removal of ashes or garbage or other refuse, or

(iii) street lighting. R.S.O. 1970, c. 131, s. 101 (1); 1976, c. 55, s. 5.

Areas of
urban
service

(2) The council of each area municipality shall, with the approval of the Municipal Board, by by-law designate the areas in which an urban service is or is to be provided by the area municipality.

Levy in
areas

(3) The aggregate amount of the sums necessary in each year to pay the cost of an urban service in a designated area, including the area municipalities' portion of all debenture charges for works constructed under the *Local Improvement Act* and debenture charges for debentures issued under any other Act in connection with such urban service, except to the extent that such cost is raised by special assessments, under any general or special Act, or otherwise, shall be levied in the manner provided by the *Municipal Act* upon all rateable property in the designated area and no part of the cost of providing such urban

R.S.O. 1980,
cc. 250, 302

service shall be levied on any part of the area municipality lying outside the designated area. R.S.O. 1970, c. 131, s. 101 (2, 3).

RESERVE FUNDS

80.—(1) Reserve funds established by local municipalities for purposes for which the District Council has authority to spend funds and for which the council of an area municipality has no authority to spend funds are reserve funds of the District Corporation and the assets of such reserve funds are vested in the District Corporation.

Reserve
funds of
municipalities

(2) Reserve funds established by local municipalities, other than divided municipalities, for purposes for which the councils of area municipalities have authority to spend funds and for which the District Council has no authority to spend funds are reserve funds of the area municipality of which the local municipality forms a part, and the assets of such reserve funds are vested in such area municipality. R.S.O. 1970, c. 131, s. 102.

Idem

81.—(1) The District Council may in each year provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds. 1976, c. 71, s. 3, *part*.

Reserve
funds,
establish-
ment, etc.

(2) The moneys raised for a reserve fund established under subsection (1) shall be paid into a special account and may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund. R.S.O. 1970, c. 131, s. 103 (2).

Investments
and income

R.S.O. 1980,
c. 512

(3) The moneys raised for a reserve fund established under subsection (1) shall not be expended, pledged or applied to any purpose other than that for which the fund was established, unless approved by the District Council. 1976, c. 71, s. 3, *part*.

Expenditure
of reserve
fund moneys

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection (1). R.S.O. 1970, c. 131, s. 103 (4).

Auditor to
report on
reserve
funds

82.—(1) The District Council shall establish and maintain a planning fund.

Planning
fund

**Purpose
of fund**

(2) The moneys in the fund established under subsection (1) may be used only to defray the costs of the District Council in exercising its powers under Part VI.

**Pollution
control fund**

(3) The District Council shall establish and maintain a pollution control fund and shall contribute to such fund, in each year, the sum equivalent to a sum calculated at one quarter of one mill in the dollar upon the total assessment upon which the district levy is apportioned in that year among the area municipalities under subsection 74 (3). R.S.O. 1970, c. 131, s. 104 (1-3).

**Purpose
of
fund**

(4) The moneys in the fund established under subsection (3) may be used only to defray the costs of the District Council in exercising its powers under Part IV and for pollution control measures undertaken in the District Area, which measures are in addition to the normal pollution control measures being undertaken by the Muskoka-Parry Sound Health Unit.

**Payment out
of fund for
waste dis-
posal site**

(5) Notwithstanding subsection (4), the District Council may pay out of the fund established under subsection (3) such sum as it considers desirable to an area municipality to defray in whole or in part the expenses of such area municipality in acquiring, establishing and maintaining a site for the purpose of receiving, dumping and disposal of ashes, garbage, refuse and domestic or industrial waste.

**Cost of
District
Council under
Part IV**

(6) None of the costs of the District Council in exercising its powers under Part IV shall form part of the levy under section 74 except as provided in subsection (4). 1976, c. 55, s. 6.

**Investments
and income**

R.S.O. 1980,
c. 512

(7) The moneys raised for each of the funds established under this section shall be paid into special accounts and may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys for each fund form part of that fund. R.S.O. 1970, c. 131, s. 104 (6).

**Expenditure
of fund
moneys**

(8) The moneys raised for each fund established under this section shall not, without the approval of the Ministry, be expended, pledged or applied to any purpose other than that for which the fund was established. R.S.O. 1970, c. 131, s. 104 (7); 1972, c. 1, s. 1.

**Auditor to
report on
funds**

(9) The auditor in his annual report shall report on the activities and position of each fund established under this section in the form prescribed by the Ministry. R.S.O. 1970, c. 131, s. 104 (8); 1972, c. 1, s. 1.

TEMPORARY LOANS

83.—(1) The District Council may by by-law, either Current borrowings before or after the passing of by-laws for imposing levies on the area municipalities for the current year, authorize the chairman and treasurer to borrow from time to time by way of promissory note such sums as the District Council may consider necessary to meet, until the levies and other revenues are received, the current expenditures of the District Corporation for the year, including the amounts required for principal and interest falling due within the year upon any debt of the District Corporation and the sums required by law to be provided by the District Council for any local board of the District Corporation. R.S.O. 1970, c. 131, s. 106 (1); 1972, c. 52, s. 8.

(2) The amount that may be borrowed at any one time for Limit upon borrowings the purposes mentioned in subsection (1), together with any similar borrowings that have not been repaid, shall not, except with the approval of the Municipal Board, exceed 70 per cent of the uncollected balance of the estimated revenues of the District Corporation as set forth in the estimates adopted for the year.

(3) Until such estimates are adopted, the limitation upon Temporary application of estimates of preceding year borrowing prescribed by subsection (2) shall temporarily be calculated upon the estimated revenues of the District Corporation as set forth in the estimates adopted for the next preceding year.

(4) The lender is not bound to establish the necessity of Protection of lender borrowing the sum lent or to see to its application.

(5) Any promissory note made under the authority of this Execution of promissory notes section shall be sealed with the seal of the District Corporation and signed by the chairman or by some other person authorized by by-law to sign it and by the treasurer and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. R.S.O. 1970, c. 131, s. 106 (2-5).

(6) The signature of the chairman or any other person Idem authorized to sign promissory notes may be written, stamped, lithographed, engraved or otherwise mechanically reproduced on promissory notes made under this section and, if such promissory note is countersigned in writing by the deputy treasurer or any other person authorized by by-law to countersign it, the signature of the treasurer thereon may be written, stamped, lithographed, engraved or otherwise mechanically reproduced. 1977, c. 35, s. 2.

Creation
of charge

(7) The District Council may by by-law provide or authorize the chairman and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the District Corporation for the current year and for any preceding years as and when such revenues are received, provided that such charge does not defeat or affect and is subject to any prior charge then subsisting in favour of any other lender.

Execution of
agreements

(8) Any agreement entered into under subsection (7) shall be sealed with the corporate seal and signed by the chairman and treasurer.

Penalties
for excess
borrowings

(9) If the District Council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor is disqualified from holding any municipal office for two years.

Penalty for
misapplica-
tion of
revenues by
District
Council

(10) If the District Council authorizes the application of any revenues of the District Corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Penalty for
misapplica-
tion of
revenues by
officials

(11) If any member of the District Council or officer of the District Corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he is personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. R.S.O. 1970, c. 131, s. 106 (6-10).

Saving as
to penalties

R.S.O. 1980,
c. 303

(12) Subsections (9), (10) and (11) do not apply to the District Council or any member of the District Council or officer of the District Corporation acting under an order or direction issued or made under the authority of the *Municipal Affairs Act*, nor do they apply in any case where application of the revenues of the District Corporation is made with the consent of the lender in whose favour a charge exists. R.S.O. 1970, c. 131, s. 106 (11); 1972, c. 1, s. 104 (6).

DEBT

Debt

R.S.O. 1980,
c. 347

84.—(1) Subject to the limitations and restrictions in this Act and the *Ontario Municipal Board Act*, the District Council may borrow money for the purposes of,

- (a) the District Corporation;
- (b) any area municipality; and
- (c) the joint purposes of any two or more area municipalities,

whether under this or any general or special Act, and may issue debentures therefore on the credit of the District Corporation.

(2) All debentures issued pursuant to a by-law passed by ^{Liability} the District Council under the authority of this Act are direct, joint and several obligations of the District Corporation and the area municipalities notwithstanding the fact that the whole or any portion of the rates imposed for the payment thereof may have been levied only against one or more of the area municipalities, but nothing in this subsection affects the rights of the District Corporation and of the area municipalities respectively as among themselves.

(3) Notwithstanding any general or special Act, no area ^{Limitation} municipality has, after the 31st day of December, 1970, power to issue debentures.

(4) When an area municipality, prior to the 31st day of ^{Uncompleted works} December, 1970,

- (a) has applied for and obtained the final approval of the Municipal Board in respect of any work, project or other matter mentioned in subsection 64 (1) of *The Ontario Municipal Board Act*, being chapter 274 of the Revised Statutes of Ontario, 1960; and
- (b) has entered into a contract for or authorized the commencement of such work, project or matter but has not prior to that date issued the debentures authorized,

the District Council, upon the request of the council of the area municipality, shall pass a by-law authorizing the issue and sale of debentures of the District Corporation for the purposes and in the amount approved by the Municipal Board and shall, if required by the area municipality, issue such debentures and provide temporary financing for the area municipality in the manner provided in section 86, and no further approval of the Municipal Board is required.

Bonds,
debentures,
etc., trustee
investments

R.S.O. 1980,
c. 512

(5) Bonds, debentures and other evidences of indebtedness of the District Corporation shall be deemed to be bonds, debentures and other evidences of indebtedness of a municipal corporation for the purposes of the *Trustee Act*. R.S.O. 1970, c. 131, s. 107.

Power to
incur debt
or issue
debentures
R.S.O. 1980,
c. 347

85.—(1) Subject to the limitations and restrictions in this Act and the *Ontario Municipal Board Act*, the District Corporation may by by-law incur a debt or issue debentures for the purposes set forth in subsection 84 (1) and, notwithstanding any general or special Act, such by-law may be passed without the assent of the electors of the District Area.

Idem

(2) Where, under any general or special Act, an area municipality cannot incur a debt or issue debentures for a particular purpose without the assent of its electors or without the concurrence of a specified number of the members of its council, the District Council shall not pass a by-law authorizing the issue of debentures on behalf of such area municipality for such purpose unless such assent or concurrence to the passing of the by-law by the District Council has been obtained.

Proviso

(3) Nothing in subsection (2) requires the assent of any electors where such assent has been dispensed with under section 63 of the *Ontario Municipal Board Act*. R.S.O. 1970, c. 131, s. 108.

Borrowing
pending
issue and
sale of
debentures

86.—(1) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the District Corporation for its purposes, the District Council pending the issue and sale of the debentures may agree with a bank or person for temporary advances from time to time for the purposes authorized, and may by by-law pending the sale of such debentures or in lieu of selling them authorize the chairman and treasurer to raise money by way of loan on the debentures and to hypothecate them for the loan. 1977, c. 35, s. 3 (1).

Idem

(2) When the Municipal Board has authorized the borrowing of money and the issue of debentures by the District Corporation for the purposes of an area municipality, the District Council or the council of the area municipality pending the issue and sale of the debentures may, and the District Council on the request of the area municipality shall, agree with a bank or person for temporary advances from time to time for the purposes authorized, and the District Council may, or on the request of the area municipality shall, pending the sale of such debentures or in lieu of selling them, authorize the chairman and treasurer to raise money by way of loan

on the debentures and to hypothecate them for the loan, and shall transfer the proceeds of such advance or loan to the area municipality. 1977, c. 35, s. 3 (2).

(3) The District Corporation may charge interest on any proceeds of an advance or loan transferred under subsection (2) at a rate sufficient to reimburse it for the cost of such advance or loan.

Interest on
proceeds
transferred

(4) The proceeds of every advance or loan under this section shall be applied to the purposes for which the debentures were authorized, but the lender shall not be bound to see to the application of the proceeds and, if the debentures are subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan and, where the debentures were issued for the purposes of an area municipality, the balance, subject to section 100, shall be transferred to the area municipality.

Application
of proceeds
of loan

(5) Subject to subsection (4), the redemption of a debenture hypothecated does not prevent the subsequent sale thereof. R.S.O. 1970, c. 131, s. 110 (3-5).

Hypotheca-
tion not to
prevent sub-
sequent sale
of debentures

(6) The signature of the chairman or any other person authorized to sign loan agreements may be written, stamped, lithographed, engraved or otherwise mechanically reproduced on loan agreements made under this section and, if such loan agreement is countersigned in writing by the deputy treasurer or any other person authorized by by-law to countersign it, the signature of the treasurer thereon may be written, stamped, lithographed, engraved or otherwise mechanically reproduced. 1977, c. 35, s. 3 (3).

Signature
of chairman,
etc., may be
mechanically
reproduced

87.—(1) Where the District Corporation has entered into an agreement under the *Ontario Water Resources Act* whereby the District Corporation is entitled to receive moneys from the Crown, the District Council pending the receipt of such moneys may, in order to meet expenditures incurred in carrying out the agreement, agree with a bank or a person for temporary advances from time to time.

Temporary
borrowing
R.S.O. 1980,
c. 361

(2) The proceeds of every advance under this section shall be applied to the expenditures incurred in carrying out the agreement made by the District Corporation under the *Ontario Water Resources Act*, but the lender shall not be bound to see to the application of the proceeds and, when the District Corporation has received the moneys to which it is entitled from the Crown under the said

Application
of
proceeds

agreement such moneys shall be applied first in repayment of the advances. 1976, c. 55, s. 8.

Principal
and interest
payments

88.—(1) Subject to subsection (2), a money by-law for the issuing of debentures shall provide that the principal shall be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid, but the by-law may provide for annual instalments of combined principal and interest.

Sinking fund
debentures

(2) A money by-law for the issuing of debentures may provide that the principal shall be repaid at a fixed date with interest payable annually or semi-annually, in which case debentures issued under the by-law shall be known as sinking fund debentures.

When
debentures to
be payable

(3) Notwithstanding any general or special Act, the whole debt and the debentures to be issued therefor shall be made payable within such term of years as the Municipal Board may approve.

Special levy
against area
municipalities

(4) The by-law may provide for raising in each year, by special levy or levies against one or more area municipalities, the whole or specified portions of the sums of principal and interest payable under the by-law in such year, and each area municipality shall pay to the District Corporation such sums at the times and in the amounts specified in the by-law.

General levy

(5) The by-law shall provide for raising in each year, by a special levy on all the area municipalities, the sums of principal and interest payable under the by-law in such year to the extent that such sums have not been provided for by any special levy or levies against any area municipality or municipalities made especially liable therefor by the by-law.

Levy by
area muni-
cipalities

(6) Any special levy against an area municipality imposed by the by-law under the authority of subsection (4) may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection (4). R.S.O. 1970, c. 131, s. 111 (1-6).

Instalment
debentures
and
debentures
to refund
existing
debentures
at maturity

(7) Notwithstanding subsection (5), the District Council may by by-law,

(a) authorize the borrowing of money by the issue of instalment debentures, the last instalment of which shall mature not earlier than ten years after the date

upon which they are issued, and a specified sum of principal payable thereunder in the final year shall be raised by the issue of refunding debentures as provided in clause (b), and it shall not be necessary to raise by special rate in the year of maturity of the debentures to be refunded an amount equal to the specified principal amount of the debentures which are being refunded; and

- (b) authorize the issue of debentures to refund at maturity outstanding debentures of the municipality, provided that the refunding debentures shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the outstanding debentures were issued, commencing on the date of the debentures originally issued for such debt,

and any such by-law shall provide that the sums of principal and interest payable under the by-law shall be raised by a special levy or levies against such area municipality or municipalities as may be specified in the by-law, and such levy shall be levied against the same area municipality or municipalities in each case.

(8) Any special levy against an area municipality imposed ^{Levy} by the by-law under the authority of subsection (7) may be levied by the area municipality against persons or property in the same manner and subject to the same limitations as if it were passing a by-law authorizing the issue of debentures of the area municipality for the same purpose for the portion of the debt levied against it under subsection (7), and any levy imposed by a by-law under clause (7) (b) shall be levied by the area municipality against the same persons or property as the levy imposed by the related by-law under clause (7) (a) was levied. 1972, c. 52, s. 10 (1).

(9) All levies imposed by the by-law against an area ^{Levies} municipality are a debt of the area municipality to the _{a debt} District Corporation.

(10) The District Council may by by-law authorize a ^{By-law to} change in the mode of issue of the debentures and may ^{change mode} provide that the debentures be issued with coupons instead ^{of issuing} of in amounts of combined principal and interest or ^{debentures} *vice versa* and where any debentures issued under the by-law have been sold, pledged or hypothecated by the District Council upon again acquiring them or at the request of any holder of them, may cancel them and issue one or

more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year. R.S.O. 1970, c. 131, s. 111 (7, 8).

Debentures.
when to be
dated and
issued

(11) All the debentures shall be issued within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the District Council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law. R.S.O. 1970, c. 131, s. 111 (9); 1976, c. 55, s. 9 (1).

Date of
debentures

(12) All the debentures shall bear the same date, except where they are issued in sets in which case every debenture of the same set shall bear the same date.

Idem

(13) Notwithstanding the provisions of the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection (11) and the debentures may bear date before the date the by-law is passed if the by-law provides for the first levy being made in the year in which the debentures are dated or in the next succeeding year.

Extension
of time for
issue

(14) The Municipal Board, on the application of the District Council, the council of any area municipality or any person entitled to any of the debentures or of the proceeds of the sale thereof, may at any time extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Application
after time
expired

(15) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Effective
date

(16) Unless the by-law names a later day when it is to take effect, it takes effect on the day of its passing.

Consolida-
tion

(17) Notwithstanding any general or special Act, the District Council may borrow sums for two or more purposes

in one debenture by-law and provide for the issue of one series of debentures therefor.

(18) Section 145 of the *Municipal Act* applies with necessary modifications to the District Corporation.

Consolidat-
ing
debenture
by-laws
R.S.O. 1980,
c. 302

(19) The by-law may provide that all the debentures or a portion thereof shall be redeemable at the option of the District Corporation on any date prior to maturity, subject to the following provisions:

Redemption
before
maturity

1. The by-law and every debenture that is so redeemable shall specify the place or places of payment and the amount at which such debenture may be so redeemed.
2. The principal of every debenture that is so redeemable becomes due and payable on the date set for the redemption thereof, and from and after such date interest ceases to accrue thereon where provision is duly made for the payment of the principal thereof, the interest to the date set for redemption, and any premium payable on redemption.
3. Notice of intention so to redeem shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book.
4. At least thirty days prior to the date set for such redemption, notice of intention so to redeem shall be published in *The Ontario Gazette* and in a daily newspaper of general circulation in the District Area and in such other manner as the by-law may provide.
5. Where only a portion of the debentures issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates and no debentures issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date.
6. Where a debenture is redeemed on a date prior to maturity, such redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the

validity of such special assessments or levies, or the powers of the District Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the District Council in respect of the debenture so redeemed.

Currency (20) The by-law may provide that the debentures to be issued thereunder shall be expressed and be payable,

(a) in lawful money of Canada and payable in Canada;

(b) in lawful money of the United States of America and payable in the United States of America; or

(c) in lawful money of Great Britain and payable in Great Britain.

Annual rates (21) Where, under the provisions of the by-law, debentures issued thereunder are expressed and made payable in lawful money of the United States of America or of Great Britain, the District Council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for such purposes and as the requirements for such purposes may from year to year vary. R.S.O. 1970, c. 131, s. 111 (10-19).

Principal levies (22) When sinking fund debentures are issued, the amount of principal to be raised in each year shall be a specific sum which, with the estimated interest at a rate not exceeding 5 per cent per annum, capitalized yearly, will be sufficient to pay the principal of the debentures or any set of them, when and as it becomes due. R.S.O. 1970, c. 131, s. 111 (20); 1972, c. 52, s. 10 (2).

Consolidated bank accounts (23) When sinking fund debentures are issued, the sinking fund committee shall keep one or more consolidated bank accounts in which,

(a) the treasurer of the District Corporation shall deposit each year during the term of the debentures the moneys raised for the sinking fund of all debts that are to be paid by means of sinking funds; and

(b) there shall be deposited all earnings derived from, and all proceeds of the sale, redemption or pay-

ment of, sinking fund investments. R.S.O. 1970, c. 131, s. 111 (21).

(24) When sinking fund debentures are issued, there shall be a sinking fund committee that shall be composed of the treasurer of the District Corporation and two members appointed by the District Council, and the two appointed members may be paid, out of the current fund of the District Corporation, such annual remuneration as the District Council determines. 1972, c. 52, s. 10 (3), *part.*

Sinking
fund
committee

(25) The District Council may appoint an alternate member for each of the appointed members and any such alternate member has all the powers and duties of the member in the absence or inability to act of such member and any such alternate member may be paid, out of the current fund of the District Corporation, such remuneration as the District Council determines. 1976, c. 71, s. 4.

Alternate
members

(26) The treasurer of the District Corporation shall be the chairman and treasurer of the sinking fund committee and in his absence the appointed members may appoint one of themselves as acting chairman and treasurer.

Chairman

(27) Each member of the sinking fund committee shall, before entering into the duties of his office, give security for the faithful performance of his duties and for duly accounting for and paying over all moneys that come into his hands, in such amount as the auditor of the District Corporation shall determine, and in other respects the provisions of section 94 of the *Municipal Act* apply with respect to such security.

Security

R.S.O. 1980,
c. 302

(28) Two members of the sinking fund committee are a quorum, and all investments and disposals of investments must be approved by a majority of all the members of the committee.

Quorum

(29) All assets of the sinking funds, including all consolidated bank accounts, shall be under the sole control and management of the sinking fund committee.

Control of
sinking fund
assets

(30) All withdrawals from the consolidated bank accounts shall be authorized by the sinking fund committee, and all cheques on the consolidated bank accounts shall be signed by the chairman or acting chairman and one other member of the sinking fund committee.

Withdrawals
from bank
accounts

(31) The sinking fund committee shall invest any moneys on deposit from time to time in the consolidated bank

Investments

accounts and may at any time or times vary any investments. R.S.O. 1970, c. 131, s. 111 (24-29).

Idem

(32) The moneys in the consolidated bank accounts shall be invested in one or more of the following forms,

R.S.O. 1980,
c. 512

(a) in securities in which a trustee may invest under the *Trustee Act*;

(b) in debentures of the District Corporation;

(c) in temporary advances to the District Corporation pending the issue and sale of any debentures of the District Corporation;

(d) in temporary loans to the District Corporation for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made;

(e) in securities issued or unconditionally guaranteed as to principal and interest by the United States of America;

(f) in such other securities as are authorized by the Lieutenant Governor in Council. R.S.O. 1970, c. 131, s. 111 (30); 1976, c. 55, s. 9 (2).

Deposit of
securities
with
Treasurer
of Ontario

(33) Any securities acquired by the sinking fund committee as investments for sinking fund purposes may be deposited with the Treasurer of Ontario.

Release of
securities by
Treasurer
of Ontario

(34) The Treasurer of Ontario shall release, deliver or otherwise dispose of any security deposited with him under subsection (33) only upon the direction in writing of the sinking fund committee.

Sinking fund
accounts

(35) All sinking fund debentures issued on the same date, payable in the same currency, and maturing on the same date, notwithstanding they are issued under one or more by-laws, shall be deemed one debt and be represented by one sinking fund account.

Earnings
credited to
sinking fund
account

(36) That proportion of the amount of all earnings in any year, on an accrual basis, from sinking fund investments, obtained by,

(a) multiplying the amount of all such earnings by the amount of the capitalized interest for that

year under subsection (22) with respect to the principal raised up to and including such year for all sinking fund debentures represented by any sinking fund account; and

- (b) dividing the product obtained under clause (a) by the amount of all capitalized interest for that year under subsection (22) with respect to all principal raised up to and including such year for all outstanding sinking fund debentures,

shall be credited to the sinking fund account, mentioned in clause (a).

(37) The treasurer of the District Corporation shall prepare and lay before the District Council in each year, before the annual district levies are made, a statement showing the sums that the District Council will be required, by-law, to raise for sinking funds in that year. Sinking fund requirements

(38) If the treasurer of the District Corporation contravenes subsection (23) or (37), he is guilty of an offence and on conviction is liable to a fine of not more than \$250. Offence

(39) If the District Council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the District Council is disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. Failure to levy

(40) Notwithstanding this or any other Act or by-law, if it appears at any time that the amount at the credit of any sinking fund account will be more than sufficient, with the estimated earnings to be credited thereto under subsection (36) together with the levy required to be made by the by-law or by-laws that authorized the issue of the debentures represented by such sinking fund account, to pay the principal of the debt represented by such sinking fund account when it matures, the Municipal Board, on the application of the sinking fund committee, the District Council or the council of an area municipality, may authorize the District Council or the council of an area municipality to reduce the amount of money to be raised with respect to such debt in accordance with the order of the Municipal Board. Where amount in sinking fund account more than sufficient to pay debt

(41) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or No diversion of sinking funds

other expenditure of the District Corporation or otherwise than is provided in this section. R.S.O. 1970, c. 131, s. 111 (31-39).

Surplus

(42) When there is a surplus in a sinking fund account, the sinking fund committee shall,

- (a) use the surplus to increase the amount at the credit of another sinking fund account; or
- (b) authorize the withdrawal of the surplus from the consolidated bank accounts, and the surplus shall be used for one or more of the following purposes,
 - (i) to retire unmatured debentures of the District Corporation or of an area municipality,
 - (ii) to reduce the next annual levy on account of principal and interest payable with respect to debentures of the District Corporation or of an area municipality,
 - (iii) to reduce the amount of debentures to be issued for other capital expenditures for which the issue of debentures has been approved by the Municipal Board,

and the surplus shall be used under either clause (a) or (b) for the purposes of the District Corporation or an area municipality in the proportion that the amount of the contribution for the purposes of each bears to the total contributions to the sinking fund account in connection with which the surplus arose. R.S.O. 1970, c. 131, s. 111 (40); 1972, c. 52, s. 10 (4).

Deficit and surplus

(43) Notwithstanding that any sinking fund debentures have been issued for the purposes of one or more area municipalities, any deficit in the sinking fund account shall be provided by the District Corporation out of its current funds and any surplus in the sinking fund account shall be used as provided in subsection (42). R.S.O. 1970, c. 131, s. 111 (41).

Term debentures

(44) A money by-law may authorize the issue of debentures of which a portion shall be payable on a fixed date with interest payable annually or semi-annually, in which case such debentures shall be known as term debentures.

Amounts to be raised annually

(45) In respect of the term debentures, the by-law shall provide for raising,

- (a) in each year of the currency of the term debentures, a sum sufficient to pay the interest on the term debentures; and
- (b) in each year of the currency of the term debentures in which no other debentures issued under the same by-law become due and payable, a specific amount to form a retirement fund for the term debentures which, with interest at a rate not to exceed 5 per cent per annum compounded yearly, will be sufficient to pay the principal of the term debentures at maturity.

(46) The retirement fund for the term debentures shall be administered by the sinking fund committee in all respects in the same manner as a sinking fund established under this section, and the provisions of subsections (23) to (43) of this section with respect to a sinking fund shall apply with necessary modifications to such retirement fund.

Retirement
fund
administra-
tion

(47) Notwithstanding the provisions of any general or special Act or any differences in date of issue or maturity, every debenture issued shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the District Corporation except as to the availability of any sinking funds applicable to any particular issue of debentures. 1976, c. 55, s. 9 (3).

All
debentures
to rank
equally

89. Notwithstanding any other provision of this Act,

- (a) a money by-law of the District Council may provide that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date, subject to the obligation of the District Corporation to redeem by lot annually on each anniversary of the date of such debentures a specified principal amount of such debentures upon payment by the District Corporation of such principal amount plus accrued interest to the date of redemption and upon giving notice as provided in this section;
- (b) the principal amount of every debenture that is called for redemption shall become due and payable on the date set for the redemption thereof and, after such date, interest ceases to accrue thereon where provision is duly made by the District Corporation for the payment of the principal amount thereof;

Debentures
payable on
a fixed date
subject to
annual
redemption
by lot of a
specified
principal
amount

interest
ceases to
accrue on
date set for
redemption

debentures
to be
redeemed
may be
purchased

- (c) the debentures to be redeemed on each anniversary of the date of such debentures shall be selected by lot by the treasurer of the District Corporation at a public meeting of the District Council and when redeemed shall be cancelled and shall not be reissued, provided always that the principal amount of the debentures to be redeemed in any year may be reduced by the principal amount of any debentures purchased by the District Corporation, at a price or prices not exceeding the principal amount thereof, and surrendered for cancellation on the date fixed for redemption;

notice to
redeem to be
sent by mail

- (d) notice of intention to redeem any debenture shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture may be registered at the address shown in the Debenture Registry Book;

notice to
redeem to be
published

- (e) notice of intention to redeem any debenture shall be published at least thirty days prior to the date set for such redemption in such manner as the by-law may provide;

where only
portion of
debentures
payable on
fixed date

- (f) where only a portion of the debentures issued under a by-law is payable on a fixed date, the obligation of the District Corporation to redeem by lot annually a specified principal amount of such debentures does not apply in any year in which an instalment of principal of the remaining debentures issued under such by-law becomes due and payable; and

annual
amounts
payable
to be
approx-
imately
equal

- (g) the aggregate amounts of principal and interest, or the amounts of principal, payable in each year during the currency of debentures issued under this section shall be approximately equal. 1976, c. 55, s. 10.

Application
of
R.S.O. 1980,
c. 302

90.—(1) Subsection 152 (1) of the *Municipal Act* applies with necessary modifications to the District Council. 1976, c. 71, s. 5.

Hypotheca-
tion not a
sale under
this section

- (2) For the purposes of this section, the hypothecation of debentures under section 86 shall not constitute a sale or other disposal thereof.

Consolida-
tion of
debentures

- (3) The District Council may by one by-law authorized under subsection (1) amend two or more by-laws and provide

for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

(4) A by-law passed under this section does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the District Council to continue to levy and collect from any area municipality the subsequent payments of principal and interest payable by it to the District Council. R.S.O. 1970, c. 131, s. 112 (2-4).

Special
assessment
and levies

91.—(1) Where part only of a sum of money provided for by a by-law has been raised, the District Council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

Repeal of
by-law when
part only of
money to be
raised

(2) The repealing by-law shall recite the facts on which it is founded, shall provide that it shall take effect on the 31st day of December in the year of its passing, shall not affect any rates or levies due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. R.S.O. 1970, c. 131, s. 113.

When to
take effect

92.—(1) Subject to section 91, after a debt has been contracted under a by-law, the District Council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating, for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually and shall not apply to any other purpose any money of the District Corporation that has been directed to be applied to such payment.

Until debt
paid certain
by-laws
cannot be
repealed

(2) When the District Corporation, by or under the authority of this Act, pays to an area municipality any amount of principal and interest becoming due upon any outstanding debentures issued by the area municipality, neither the council of the area municipality nor any officer thereof shall apply any of the money so paid for any purpose other than the payment of the amounts of principal and interest so becoming due. R.S.O. 1970, c. 131, s. 114.

Application
of payments

93. Any officer of the District Corporation whose duty it is to carry into effect any of the provisions of a money by-law of the District Corporation who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be

Offence for
neglect of
officer to
carry out
by-law

raised annually under it, is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 131, s. 115.

Money
by-laws
may be
registered

94.—(1) Within four weeks after the passing of a money by-law, the clerk may register a duplicate original or a copy of it, certified under his hand and the seal of the District Corporation in the Land Registry Office for the Registry Division of Muskoka (No. 35).

Application
to quash
registered
by-law,
when to be
made
R.S.O. 1980,
cc. 126, 250

(2) Subject to section 61 of the *Ontario Municipal Board Act*, every by-law registered in accordance with subsection (1), or before the sale or other disposition of the debentures issued under it, and the debentures are valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws passed under the *Drainage Act*, or the *Local Improvement Act*, and in the case of other by-laws, within three months after the registration, an application or action to quash the by-law is made to or brought in a court of competent jurisdiction, and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought, is registered in such registry office within such period of three months, or one month, as the case may be.

Time when
by-law to be
valid and
binding

(3) After the expiration of the period prescribed by subsection (2), if no application or action to quash the by-law is made or brought, the by-law is valid and binding according to its terms.

Quashing
part of
by-law

(4) If an application or action to quash the by-law is made or brought within the period prescribed by subsection (2), but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, is, after the expiration of that period, valid and binding according to its terms.

Dismissal of
application

(5) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered, and after such dismissal and the expiration of the period prescribed by subsection (2), if it has not already expired, the by-law, or so much of it as is not quashed, is valid and binding according to its terms.

Illegal
by-laws not
validated

(6) Nothing in this section makes valid a by-law passed without the assent of the electors of an area municipality as required by subsection 85 (2) or a by-law where it appears on the

face of it that any of the provisions of subsection 88 (5) have not been substantially complied with.

(7) Failure to register a by-law as prescribed by this section does not invalidate it. R.S.O. 1970, c. 131, s. 116. Failure to register

95.—(1) A debenture or other like instrument shall be sealed with the seal of the District Corporation, which seal may be engraved, lithographed, printed or otherwise mechanically reproduced thereon, and, subject to subsection (3), shall be signed by the chairman or by some other person authorized by by-law of the District Corporation to sign it, and by the treasurer. Debentures, how sealed and executed

(2) A debenture may have attached to it interest coupons that shall be signed by the treasurer and his signature to them may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and such interest coupons are sufficiently signed if they bear the signature of the treasurer on the date the District Council authorized the execution of the debenture or on the date the debenture bears or at the time the debenture was issued and delivered. Interest coupons

(3) The signature of the chairman, or such other person authorized by by-law to sign the debentures or other like instruments, may be engraved, lithographed, printed or otherwise mechanically reproduced thereon and, if the debentures or other like instruments are countersigned in writing by a person authorized by by-law of the District Corporation to countersign, the signature of the treasurer may be engraved, lithographed, printed or otherwise mechanically reproduced thereon. Mechanical reproduction of signatures

(4) The seal of the District Corporation when so engraved, lithographed, printed or otherwise mechanically reproduced has the same force and effect as if manually affixed and the signature of the chairman or such other person authorized by by-law to sign the debentures or other like instruments and, if the debentures or other like instruments are countersigned, the signature of the treasurer when so engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the chairman or other person so authorized to sign or of the treasurer, as the case may be, and is binding upon the District Corporation. Effect of mechanical reproduction

(5) Any debenture or other like instrument is sufficiently signed and countersigned if it bears the signatures of the persons provided in this section if such persons had authority Sufficiency of signatures

to sign and countersign as provided in this section either on the date the District Council authorized the execution of such instrument or on the date such instrument bears or at the time it was issued and delivered. R.S.O. 1970, c. 131, s. 117.

Debentures on which payment has been made for one year to be valid

96. Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture that has matured has been paid by the District Corporation, the by-law and the debentures issued under it are valid and binding upon the District Corporation. R.S.O. 1970, c. 131, s. 118.

Mode of transfer may be prescribed

97.—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

This debenture, or any interest therein, is not, after a certificate of ownership has been endorsed thereon by the treasurer of this Corporation (or by such other person authorized by by-law of this Corporation to endorse such certificate of ownership), transferable except by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book of the Corporation at the

.....

.....

of

the treasurer (or such other person so authorized), on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate that is subsequently given, and shall also enter in such book a memorandum of every transfer of such debenture.

Requirements as to endorsing certificate of ownership

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, and, if the person last entered as owner of it is a corporation, the written authority of such corporation, or its successors, which authority shall be retained and filed by the treasurer.

(3) After a certificate of ownership has been endorsed, the debenture, if it contains or has endorsed upon it a provision to the like effect of the provision contained in subsection (1), is transferable only by entry by the treasurer (or by such other person so authorized) in the Debenture Registry Book as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney and, if the then owner of it is a corporation, the written authority of such corporation, or its successors. R.S.O. 1970, c. 131, s. 119.

Transfer by
entry in
Debenture
Registry
Book

(4) A debenture may be registered as to both principal and interest in which case the interest thereon shall be paid by cheque and the debenture may be referred to as a fully registered debenture.

Registra-
tion of
debenture
as to
principal
and
interest

(5) Where debentures are payable in a currency other than that of Canada, the District Council may provide that the Debenture Registry Book of the District Corporation in respect of such debentures be maintained outside Canada by a corporation or person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the District Council considers appropriate. 1976, c. 55, s. 11.

Where
Debenture
Registry
Book may be
maintained
outside
Canada

98. Where a debenture is defaced, lost or destroyed, the District Council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. R.S.O. 1970, c. 131, s. 120.

Replacement
of lost
debentures

99.—(1) On request of the holder of any debenture issued by the District Corporation, the treasurer of the District Corporation may issue and deliver to such holder a new debenture or new debentures in exchange therefor for the same aggregate principal amount.

Exchange of
debentures

(2) On the request of the sinking fund committee, the treasurer of the District Corporation may, as provided in this section, exchange debentures heretofore or hereafter issued by the District Corporation.

On request
of sinking
fund
committee

(3) Any new debentures mentioned in subsection (1) may be registered as to principal and interest but in all other respects shall be of the same force and effect as the debenture or debentures surrendered for exchange.

New
debentures
of same force
and effect as
debentures
surrendered

(4) The treasurer and auditor of the District Corporation shall cancel and destroy all debentures surrendered for

Debentures
surrendered
for exchange
to be
cancelled

exchange and shall certify in the Debenture Registry Book that they have been cancelled and destroyed and shall also enter in the Debenture Registry Book particulars of any new debenture issued in exchange. R.S.O. 1970, c. 131, s. 121.

Application
of proceeds of
debentures

100.—(1) The moneys received by the District Corporation from the sale or hypothecation of any debentures to the extent that such moneys are required for the purposes for which the debentures were issued, and for the repayment of any outstanding temporary loans with respect thereto, shall be used only for such purpose or purposes.

Idem

(2) None of the moneys received by the District Corporation from the sale or hypothecation of any debentures shall be applied towards payment of the current or other expenditures of the District Corporation or an area municipality.

Surplus

(3) Where, on the sale of any debenture, an amount is realized in excess of that required for the purpose or purposes for which the debentures were issued, the excess amount shall be applied,

- (a) if any such debentures are redeemable prior to maturity at the option of the District Corporation, to redeem one or more of the debentures having the latest maturity date;
- (b) to reduce the next annual levy on account of principal and interest payable with respect to such debentures; or
- (c) to reduce the amount of debentures to be issued for other capital expenditures of a similar nature for which the issue of debentures has been approved by the Municipal Board, provided that the principal and interest charges of such debentures are levied upon the assessment of the same class of rate-payers as was levied upon for the principal and interest charges of the debentures with respect to which the excess arose.

Deficiency

(4) Where, on the sale of any debentures, a deficiency in the amount required for the purpose or purposes for which the debentures were issued is sustained, the amount of such deficiency shall be added to the sum to be raised for the first annual payment of principal and interest with respect to the debentures and the levy made in the first

year for such purpose or purposes shall be increased accordingly or shall be raised by the issue of other debentures approved by the Municipal Board for the same or any similar purpose or purposes. R.S.O. 1970, c. 131, s. 122.

101. Where real or personal property acquired out of moneys received by the District Corporation from the sale or hypothecation of any debentures is disposed of by sale or otherwise, the net proceeds of such disposal shall be applied as an excess in accordance with subsection 100 (3) or, with the approval of the Municipal Board, may be applied to meet the whole or a portion of any other capital expenditure the debt charges for which, if raised by taxation, would be raised by taxation levied upon the assessment of the same class of ratepayers as was levied upon for the principal and interest charges of the debentures issued in respect of the property disposed of or sold. R.S.O. 1970, c. 131, s. 123.

Use of
proceeds of
sale of
assets
acquired
from
proceeds of
sale of
debentures

102. When the District Corporation intends to borrow money on debentures under this or any other Act, the District Council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. R.S.O. 1970, c. 131, s. 124.

Tenders for
debentures

103.—(1) The District Council shall,

Accounts,
how to be
kept

- (a) keep a separate account of every debenture debt;
- (b) where the whole of a debenture debt is not payable in the current year, keep in respect thereof,
 - (i) an additional account for the interest, if any, and
 - (ii) an additional account for the sinking fund or the instalments of principal,

distinguished from all other accounts by a prefix designating the purpose for which the debenture debt was contracted; and

- (c) keep the accounts so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for the payment of it.

Consolidated
interest
account

(2) The District Council may by by-law provide and direct that instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt. R.S.O. 1970, c. 131, s. 125.

Application
of surplus
money

104. If, in any year after paying the interest and appropriating the necessary sum in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or in payment of the principal. R.S.O. 1970, c. 131, s. 126.

Liability of
members

105.—(1) If the District Council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application are personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Action by
ratepayer

(2) If the District Council, upon the request in writing of a ratepayer of any area municipality, refuses or neglects for one month to bring an action therefor, the action may be brought by any such ratepayer on behalf of himself and all other ratepayers in the District Area.

Disqualifi-
cation

(3) The members who vote for such application are disqualified from holding any municipal office for two years. R.S.O. 1970, c. 131, s. 127.

Refinancing
of debentures

106. When, by or under the authority of this Act, the District Corporation is or becomes liable for the payment to an area municipality of all amounts of principal and interest becoming due upon any outstanding debentures issued by the area municipality, the District Corporation may, with the approval of the Municipal Board,

(a) cancel all such debentures that have not been sold and issue new debentures of the District Corporation in substitution and exchange therefor and apply the proceeds thereof, as may be directed by the Municipal Board, for the purposes for which such debentures were issued;

(b) arrange with the area municipality for the redemption of all such debentures as are redeemable

and issue new debentures of the District Corporation to raise the moneys required for such redemption;

- (c) purchase, by agreement with the owner or owners thereof, all such debentures of a single issue of the area municipality, and issue new debentures of the District Corporation to raise the money required to complete such purchase. R.S.O. 1970, c. 131, s. 128.

107. After the 15th day of May in the year 1970, no local municipality shall, without the approval of the Ontario Municipal Board, dispose of any asset purchased at a cost of, or valued at, more than \$5,000. R.S.O. 1970, c. 131, s. 129. Disposal of assets

PART X

GENERAL

108.—(1) Section 5, Parts XIII, XIV, XV and XIX, sections 105, 106, 113, 116 and 121, subsection 165 (3), section 190, paragraphs 3, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210 and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the District Corporation, and, for the purposes of section 253 of the *Municipal Act*, the District Corporation shall be deemed to be a local municipality. 1979, c. 68, s. 7. Application of R.S.O. 1980, c. 302

(2) Sections 10 and 11, and, subject to subsection 2 (2), subsection 14 (2) of the *Municipal Act* do not apply to any area municipality except in relation to alterations of boundaries, within the District Area, of area municipalities, which alterations, in the opinion of the Municipal Board, are of a minor nature. Exceptions

(3) The District Corporation shall be deemed to be a local municipality for the purpose of paragraph 134 of section 210 of the *Municipal Act*. R.S.O. 1970, c. 131, s. 130 (2, 3). Nuisances

(4) The District Corporation shall be deemed to be, and to have always been, a municipality for the purposes of section 311 of the *Municipal Act*. 1980, c. 29, s. 4. Purchasing or renting machinery

(5) Notwithstanding any other provision of this Act, the District Council may pass by-laws authorizing the Delegation of approval and consents

head of the department concerned to grant such of the approvals and consents required by subsection 33.(2) as are designated in the by-law, and any such by-law may prescribe terms and conditions under which any such approval or consent may be granted. R.S.O. 1970, c. 131, s. 130 (4), *revised*.

Application
of
R.S.O. 1980,
c. 297

(6) The District Corporation shall be deemed to be a municipal corporation for the purposes of section 13 of the *Mortmain and Charitable Uses Act*. 1977, c. 35, s. 4 (2).

By-laws to
remain in
force

(7) Every by-law of a local municipality as it exists on the 31st day of December, 1970, shall remain in force in the area of the former local municipality on and after the 1st day of January, 1971, until repealed by the council of an area municipality as it affects such area municipality. R.S.O. 1970, c. 131, s. 130 (6).

Emergency
measures
and civil
defence

109.—(1) The District Council may pass by-laws,

- (a) for the establishment and maintenance of an emergency measures civil defence organization in the District Area; and
- (b) for providing moneys for emergency measures and civil defence, for the purposes of the emergency measures civil defence organization and for the cost of the operation of such organization, and for other similar work in the District Area.

and when a by-law passed under this subsection is in force in the District Area any by-laws passed by the council of an area municipality under subclause 209 (b) (ii) and (iii) of the *Municipal Act* have no effect.

R.S.O. 1980,
c. 302

Powers of
District
Council

(2) When a by-law passed under clause (1) (a) is in force, the District Council may pass by-laws,

- (a) with the consent of the area municipality or local board concerned, for appointing heads of departments and alternates to be members of or advisers to the emergency measures planning committee or any subcommittee thereof;
- (b) with the consent of the area municipality or local board concerned, for training employees of the area municipality or local board in their emergency functions;
- (c) for appointing members of the emergency measures planning committee or of any subcommittee thereof,

to be in charge of such departments or utilities throughout the District Area, as the by-law may provide, when an emergency has been proclaimed under the *War Measures Act* (Canada);

R.S.C. 1970,
c. W-2

- (d) for acquiring alternative headquarters for the District Government outside the District Area;
- (e) for obtaining and distributing emergency materials, equipment and supplies; and
- (f) for complying with any request of the Government of Canada or of Ontario in the event of a nuclear attack. R.S.O. 1970, c. 131, s. 131.

110. The District Corporation may make expenditures for the purpose of diffusing information respecting the advantages of the district municipality as an industrial, business, educational, residential or vacation centre. 1976, c. 55, s. 13.

Expenditures
for diffusing
information

111. Where, in an action or by the settlement of a claim arising out of an injury to an employee or to any person deemed an employee for the purposes of the *Workmen's Compensation Act*, the District Corporation recovers damages from a third person, such damages or any portion thereof may be paid to such employee or person or, in the event of his death, to one or more of his dependants, upon such terms and conditions as the District Corporation may impose. R.S.O. 1970, c. 131, s. 134.

Payment of
damages to
employees
R.S.O. 1980,
c. 539

112.—(1) Where the District Council passes a resolution requesting a judge of the district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the District Council, or an officer or employee of the District Corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, employee or other person to the District Corporation, or to inquire into or concerning any matter connected with the good government of the District Corporation or the conduct of any part of its public business, including any business conducted by a local board of the District Corporation, the judge shall make the inquiry and for that purpose has the powers of a commission under Part II of the *Public Inquiries Act*, which part applies to the inquiry as if it were an inquiry under that Act, and he shall with all convenient speed

Investigation
by judge of
charges of
malfeasance

R.S.O. 1980,
c. 411

report to the District Council the result of the inquiry and the evidence taken. R.S.O. 1970, c. 131, s. 135 (1); 1971, c. 49, s. 18.

Fees
payable
to judge

R.S.O. 1980,
c. 223

(2) The judge shall be paid by the District Corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under the *Judicature Act*.

Engaging
counsel

(3) The District Council may engage and pay counsel to represent the District Corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the District Corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel.

Idem

(4) The judge may engage counsel and such other assistants and staff and incur such incidental expenses as he considers advisable for the proper conduct of the investigation or inquiry, and the District Corporation shall pay the costs thereof. R.S.O. 1970, c. 131, s. 135 (2-4).

Commission
of inquiry

R.S.O. 1980,
c. 411

113.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may issue a commission to inquire into any of the affairs of the District Corporation or a local board thereof, and any matter connected therewith, and the commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 131, s. 136 (1); 1971, c. 49, s. 18.

When
commission
may issue

(2) A commission may be recommended at the instance of the Ministry or upon the request in writing of not less than one-third of the members of the District Council, or of not less than fifty ratepayers of an area municipality assessed as owners and resident therein. R.S.O. 1970, c. 131, s. 136 (2); 1972, c. 1, s. 1.

Expenses of
commission

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister and are subject to such division between the District Corporation and the Province of Ontario as the Lieutenant Governor in Council may direct. R.S.O. 1970, c. 131, s. 136 (3).

Entry on
highways

114. The District Corporation for its purposes may enter, break up, dig and trench in, upon and under the highways, lanes and other public communications of any area municipality and may construct and maintain therein pipes,

sewers, drains, conduits and other works necessary for its purposes, without making compensation therefor, but all such highways, lanes and other public communications shall be restored to their original condition without unnecessary delay. R.S.O. 1970, c. 131, s. 137.

115. The District Corporation and any area municipality may enter into agreements for the use within any part of the District Area of the services of their respective officers, employees and equipment. R.S.O. 1970, c. 131, s. 138. Agreements re services

116.—(1) For the purposes of paragraph 9 of section 3 and section 35 of the *Assessment Act*, the District Corporation shall be deemed to be a municipality. Application of R.S.O. 1980, c. 31

(2) For the purposes of paragraph 9 of section 3 of the *Assessment Act*, where property belonging to the District Corporation is occupied by an area municipality or where property belonging to an area municipality is occupied by the District Corporation or another area municipality, the occupant shall not be deemed to be a tenant or lessee, whether rent is paid for such occupation or not. District Corporation and area municipalities not deemed tenants

(3) In subsection (2), “District Corporation” and “area municipality” include a local board thereof. R.S.O. 1970, c. 131, s. 139. Interpretation

117.—(1) An execution against the District Corporation may be endorsed with a direction to the sheriff to levy the amount thereof by rate, and the proceedings therein shall then be the following: Executions against District Corporation

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer of the District Corporation, or leave such copy at the office or dwelling place of that officer, with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including the interest calculated to some day as near as is convenient to the day of the service.
2. If the amount with interest thereon from the day mentioned in the statement is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment rolls of all the area municipalities and shall, in like manner as the levies of the District Council for general purposes are apportioned among the area municipalities determine the portion of the amount men-

tioned in the statement that shall be levied against and in each area municipality.

3. The sheriff shall then in like manner as rates struck for general municipal purposes within each area municipality strike a rate sufficient in the dollar to cover its share of the amount due from the execution, and in determining such amount he may make such addition to the same as the sheriff considers sufficient to cover its share of the interest up to the time when the rates will probably be available and his own fees and poundage.
4. The sheriff shall thereupon issue a precept under his hand and seal of office directed to the collector of the area municipality, and shall annex to the precept the roll of such rate and shall by the precept, after reciting the writ and that the District Corporation has neglected to satisfy the same, and referring to the roll annexed to the precept, command the collector to levy such rate at the time and in the manner by law required in respect of the general annual rates.
5. If at any time for levying the annual rates next after the receipt of such report, the collector has a general rate roll delivered to him for the year, he shall add a column thereto, headed "Execution rate in A.B. vs The District Municipality of Muskoka" (adding a similar column for each execution if more than one), and shall insert therein the amount by such precept required to be levied upon each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, within the time within which he is required to make the return of the general annual rate, return to the sheriff the precept with the amount levied thereon.
6. The sheriff shall, after satisfying the execution and all the fees and poundage thereon, pay any surplus, within ten days after receiving the same, to the treasurer of the area municipality.

Functions of
clerk, etc.

(2) The clerk, assessor and collector of each area municipality shall, for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Act with respect to such execution, be deemed to be officers of the court out of which the writ issued, and as such are amenable to the

court and may be proceeded against by attachment, mandamus or otherwise in order to compel them to perform the duties imposed upon them. R.S.O. 1970, c. 131, s. 140.

118. In the event of any doubt as to whether any particular asset or liability is vested in the District Corporation under this Act, the Municipal Board upon application has power to determine the matter as sole arbitrator and sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such power. R.S.O. 1970, c. 131, s. 141.

Settling of doubts

R.S.O. 1980, c. 347

119. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that are considered necessary or advisable to carry out effectively the intent and purposes of this Act. R.S.O. 1970, c. 131, s. 142.

Conditional powers

120. The provisions of this Act apply notwithstanding the provisions of any general or special Act and, in the event of any conflict between this Act and any general or special Act, this Act prevails. R.S.O. 1970, c. 131, s. 143.

Conflict with other Acts

121.—(1) The District Corporation or an area municipality or the District Corporation and one or more area municipalities,

Municipal buildings

(a) may acquire land for the purpose of constructing municipal buildings; and

(b) may construct municipal buildings for the use of the District Corporation or the District Corporation and one or more area municipalities or any local board thereof.

(2) Section 125 of the *Municipal Act* applies with necessary modifications to any joint undertaking under this section. R.S.O. 1970, c. 131, s. 144.

Application of R.S.O. 1980, c. 302

122. The District Corporation shall appoint a District Fire Co-ordinator who shall be responsible for the establishment of an emergency fire service plan and program for the District Area, and the District Corporation is authorized to expend such sums as it considers necessary to implement such plan and program. R.S.O. 1970, c. 131, s. 145.

District Fire Co-ordinator

123. The Minister may by order, on the request of any area municipality, dissolve any board of a community recreation centre or board of recreation or park management of the area municipality and transfer the assets and liabilities of such

Recreation and parks management boards

board to the area municipality and may deem the council of the area municipality to be a recreation committee under the *Ministry of Culture and Recreation Act* and the regulations thereunder and a board of a community recreation centre under the *Community Recreation Centres Act*. R.S.O. 1970, c. 131, s. 146; 1972, c. 1, s. 61 (7).

Deemed
municipality
under
R.S.O. 1980,
c. 302

124.—(1) The District Corporation shall be deemed to be a local municipality for the purposes of paragraph 10 of section 208 of the *Municipal Act*.

Deemed
regional
municipality
R.S.O. 1980,
cc. 500, 85

(2) The District Corporation shall be deemed to be a regional municipality for the purposes of the *Tile Drainage Act* and the *Conservation Authorities Act*. R.S.O. 1970, c. 131, s. 147.

Interpre-
tation

125.—(1) In this section, “waste” includes ashes, garbage, refuse and domestic or industrial waste of any kind.

Agreement

(2) Where an area municipality has requested the District Corporation to provide facilities for the purpose of receiving, dumping and disposing of waste, the District Corporation and the area municipality may enter into an agreement for the use and operation of such facilities. R.S.O. 1970, c. 131, s. 149 (1, 2).

Waste
disposal
sites

(3) For the purposes of an agreement under subsection (2), the District Corporation may acquire and use land within the District Area and may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of receiving, dumping and disposing of waste, and may contract with any person for such purposes, and may prohibit or regulate the dumping and disposing of waste or any class or classes thereof upon any such land, and may prescribe rates or charges for the use of such property, which rates or charges may relate to the volume, weight, or class of waste, or otherwise as the District Council considers appropriate in the circumstances. R.S.O. 1970, c. 131, s. 149 (3); 1974, c. 119, s. 13.

Application
of land use
control
by-law

(4) A by-law passed under paragraph 129 of section 210 of the *Municipal Act* does not apply to the District Corporation.

Acquisition
of land for
waste
disposal

(5) For the purposes of subsection (3), paragraph 84 of section 210 of the *Municipal Act* applies with necessary modifications. R.S.O. 1970, c. 131, s. 149 (4, 5).

126.—(1) Notwithstanding the other provisions of this Act but subject to subsections (2) and (3), for the purposes of section 109 of the *Highway Traffic Act* the areas in the District Area that, on the 31st day of December, 1970, formed part of a town, village or township municipality shall be deemed to continue to form part of a town, village or township municipality.

Existing
speed limits
continued
R.S.O. 1980,
c. 198

(2) Notwithstanding subsection (1), the District Council and the council of each area municipality may exercise any of its powers under section 109 of the *Highway Traffic Act* in respect of highways under its jurisdiction and control.

By-laws of
District
Council and
area councils

(3) Every by-law passed by the council of a municipality under any provision of section 59 of *The Highway Traffic Act*, being chapter 172 of the Revised Statutes of Ontario, 1960, that applied, on the 31st day of December, 1970, to any highway or portion thereof within the District Area shall continue to apply thereto until a by-law passed by the District Council or the council of an area municipality under section 109 of the *Highway Traffic Act* applies thereto. R.S.O. 1970, c. 131, s. 150.

Existing
by-laws
under s. 59
of R.S.O.
1960, c. 172,
continued

127. The lands in the Township of Muskoka more particularly described as follows:

Gravel pit
vested in
Town of
Gravenhurst

COMMENCING at the southeast angle of Lot 4, Concession X, Township of Muskoka, District of Muskoka.

THENCE westerly along the southerly boundary a distance of 300 feet to a point east of a road known as the Switch Road;

THENCE northerly following the easterly limit of the said Switch Road a distance of 150 feet;

THENCE northeasterly in a direct line for a distance of 500 feet more or less to a point in the easterly limit of the said Lot 4 that is distant northerly thereon 575 feet from the southeasterly angle thereof;

THENCE southerly following the easterly limit of the said Lot a distance of 575 feet to the point of commencement,

are, on the 1st day of January, 1971, vested in the Town of Gravenhurst without payment of compensation, and the clerk of the Town of Gravenhurst shall forthwith after the 26th day of

June, 1970, file a copy of this section in the appropriate land registry office. R.S.O. 1970, c. 131, s. 151.

Application
of
R.S.O. 1980,
c. 384

128.—(1) On and after the 1st day of January, 1971, no area municipality shall be required to comply with section 107 of the *Power Corporation Act*. R.S.O. 1970, c. 131, s. 152 (1).

Powers of
utilities
commissions
transferred
to area
municipality
or District
Corporation

(2) The public utilities commissions that have control and management of the distribution and supply of electrical power and energy and hydro-electric commissions within the District Area are continued until such date as the Minister may by order designate as local boards of the area municipality in which they have jurisdiction, and the powers and duties of every such public utility commission, except with respect to the distribution and supply of electrical power and energy, shall become on the 1st day of January, 1971, powers and duties of an area municipality or the District Corporation as required by this Act. R.S.O. 1970, c. 131, s. 152 (2); 1971, c. 76, s. 3 (1).

Distribution
of electrical
power

(3) Where, on the 31st day of December, 1970, The Hydro-Electric Power Commission of Ontario or a public utilities commission or a hydro-electric commission is supplying electrical power and energy in any area within the District Area, such commission shall continue, until such date as the Minister may by order designate, to distribute and sell power within such area. R.S.O. 1970, c. 131, s. 152 (3); 1971, c. 76, s. 3 (2).

Members of
commissions
continued
in office

(4) The members of a public utilities commission or a hydro-electric commission referred to in subsection (2), including *ex officio* members, who hold office when this section comes into force, shall continue to hold office until such date as the Minister may by order designate, and in addition to such members, the mayor elected for the area municipality in which such a commission operates shall also be a member of such commission. R.S.O. 1970, c. 131, s. 152 (4); 1971, c. 76, s. 3 (3).

Commissions
dissolved

(5) All public utilities commissions and waterworks commissions within the District Area except those referred to in subsection (2) are dissolved on the 1st day of January, 1971, and no area municipality shall entrust the construction, control and management of a waterworks or sewage system to any public utilities commission. R.S.O. 1970, c. 131, s. 152 (5).

Roads
boards, etc.,
dissolved

129.—(1) Every local roads board and statute labour board that has jurisdiction in the District Area is dissolved

on the 1st day of January, 1971, and all the assets and liabilities of such board become on such date assets and liabilities of the area municipality in which such board had jurisdiction.

(2) All taxes and penalties assessed by a local roads board or statute labour board against any land which are due and unpaid on the 1st day of January, 1971, shall be deemed on such date to be taxes and penalties due and payable upon such land to the area municipality in which such land is situate, and the collector of the area municipality shall enter such taxes and penalties in the collector's roll and may collect them in the same manner as if such taxes had been levied and penalties imposed by the area municipality, and the collector shall forthwith notify the owner or his agent as shown on the register of such board that the taxes and penalties are due and payable to the area municipality. R.S.O. 1970, c. 131, s. 154 (1, 2). ^{Taxes and penalties}

FORM 1

(Section 8 (4))

OATH OF ALLEGIANCE

I,, having been elected (*or appointed*) as chairman of the council of The District Municipality of Muskoka, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me, etc.

R.S.O. 1970, c. 131, Form 1.

FORM 2

(Section 8 (4))

DECLARATION OF QUALIFICATION BY CHAIRMAN

I,, having been elected (*or appointed*) as chairman of the council of The District Municipality of Muskoka, declare that:

1. I am a British subject and am not a citizen or a subject of any foreign country.
2. I am of the full age of eighteen years.
3. I am not an officer, employee or servant of any area municipality or any local board of any area municipality.
4. I have taken the oath of allegiance (Form 1) which I attach hereto.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me, etc.

R.S.O. 1970, c. 131, Form 2; 1973, c. 146, s. 6.

CHAPTER 122

District Welfare Administration Boards Act

1. In this Act,

Interpre-
tation

- (a) “band” and “council of the band” have the same meaning as in the *Indian Act* (Canada); R.S.C. 1970,
c. I-6
- (b) “board” means a district welfare administration board established under section 3;
- (c) “council” means the council of a municipality, and includes the board of trustees of an improvement district;
- (d) “district” means an area in that part of Ontario forming the territorial districts as defined by the regulations;
- (e) “Minister” means the Minister of Community and Social Services;
- (f) “municipality” means a city, town, village, township, improvement district or band to which this Act applies as determined under section 2;
- (g) “regulations” means the regulations made under this Act;
- (h) “welfare services” means,
 - (i) any class of assistance administered under the *General Welfare Assistance Act*, R.S.O. 1980,
c. 188
 - (ii) the services of a homemaker or nurse that are furnished under the *Homemakers and Nurses Services Act*, R.S.O. 1980,
c. 200
 - (iii) the expenditures for the hospitalization of indigent persons,
 - (iv) expenditures for the operating costs of children’s aid societies,

and includes such other welfare services as are designated by the regulations. R.S.O. 1970, c. 132, s. 1; 1973, c. 144, s. 1.

Application **2.**—(1) This Act applies to the towns, villages, townships and improvement districts in each district. R.S.O. 1970, c. 132, s. 2 (1).

City or band in a district (2) Any city or band in a district where a board is established may, at the request of the council of the city or band, as the case may be, and with the approval of the board and the Director of the Income Maintenance Branch of the Ministry of Community and Social Services, be a municipality to which this Act applies. R.S.O. 1970, c. 132, s. 2 (2); 1972, c. 1, s. 19 (3).

Establishment of district welfare administration board **3.**—(1) A district welfare administration board shall be established and maintained for a district by all the towns, villages, townships and improvement districts in the district when by-laws authorizing the establishment of the board have been passed by a majority of all those municipalities in the district.

Transmission of by-law (2) When a by-law is passed under subsection (1), a certified copy thereof shall be transmitted forthwith to the Minister. R.S.O. 1970, c. 132, s. 3 (1, 2).

Board is a corporation (3) A board shall be a corporation.

Composition, etc., of board (4) The composition of each board and the qualifications and term of office of the members thereof shall be as prescribed by the regulations. 1972, c. 25, s. 1.

Powers and duties of boards **4.**—(1) Where a board is established for a district, all the powers, duties and responsibilities that are given by any other Act to the councils of the municipalities in the district in respect of the provision and administration of welfare services are vested in the board.

Welfare administrator (2) Every board shall, with the approval of the Minister, appoint a welfare administrator and such other staff as is necessary. R.S.O. 1970, c. 132, s. 4.

Payments for welfare services made to board **5.** Where a board is established for a district, any contribution that is payable by Ontario for welfare services to a municipality in the district shall be paid instead to the board. R.S.O. 1970, c. 132, s. 5.

6.—(1) For the purposes of this Act, the Ministry of Revenue shall in each year revise and equalize the assessment rolls of the municipalities, other than bands, in each district for which a board is established and in so doing shall, where applicable, add to the valuation of each municipality the amounts credited to the municipality under section 160 of the *Municipal Act*. Assessment to be revised and equalized R.S.O. 1980, c. 302; R.S.O. 1970, c. 132, s. 6 (1); 1972, c. 1, s. 21.

(2) Any municipality in a district, other than a band, that is not satisfied with the last revised assessment of any municipality in the district, as equalized for the purpose of this Act, may appeal by notice in writing to the Ontario Municipal Board from the decision of the Ministry of Revenue, as varied by any amounts added in accordance with subsection (1), at any time within thirty days after the mailing of the equalized report to the appealing municipality by the Ministry of Revenue. Appeal R.S.O. 1970, c. 132, s. 6 (2); 1972, c. 1, s. 21.

(3) Every report of an equalization made for the purposes of this Act shall set out the time within which an appeal may be made to the Ontario Municipal Board with respect to such equalization: Idem R.S.O. 1970, c. 132, s. 6 (3).

(4) Subject to subsections (10) and (11) and to sections 7 and 8, each board shall in each year apportion among the municipalities in the district, in proportion to the amounts of their assessments according to the assessment rolls as revised and equalized in the immediately preceding year, the amounts that it estimates will be required to defray the expenditures for welfare services for that year, including the expenses incurred for the administration of welfare services, and shall on or before the 15th day of March notify the clerk of each such municipality of the amount to be provided by that municipality. Estimates and apportionment R.S.O. 1970; c. 132, s. 6 (4); 1973, c. 144, s. 2 (1).

(5) Subject to sections 7 and 8, where a board, after giving notice of its estimated expenditures under subsection (4), incurs during the year, additional costs for welfare services or for the administration of welfare services that were not anticipated at the time that the said notice was given, such additional costs shall be apportioned among the municipalities in accordance with subsection (4) and the board shall notify the clerk of each such municipality of the additional amount to be provided by that municipality during the year. Where additional costs incurred

(6) In preparing the estimates, the board may provide for a reserve for working funds, but the amount of the reserve in a year shall not exceed 15 per cent of the total estimates of the board for the year. Reserve for working funds

Estimates

(7) Where the actual expenditures of a board for any year are greater or less than the estimated expenditures for that year, the board shall, in preparing the estimates of the amount required to defray its expenditures for the next following year,

(a) make due allowance for any surplus that will be available from the preceding year; or

(b) provide for any deficit of the preceding year.

Payment by municipalities

(8) Each municipality shall pay the amounts required to be provided by it under this section, or determined by agreement under section 7, to the board on demand.

Penalty

(9) A board may impose on a municipality a percentage charge as a penalty for non-payment of amounts payable under this section not exceeding 1 per cent on the first day of default and on the first day of each calendar month thereafter in which default continues. R.S.O. 1970, c. 132, s. 6 (5-9).

Where assessments not equalized in time

(10) Where in any year the last revised assessment rolls of the municipalities in the district are not equalized by the Ministry of Revenue under subsection (1) before the 10th day of February, the board may apportion the amount that it estimates to be required in proportion to the amounts of their assessments most recently equalized, and in that case shall reapportion the amount and make the necessary adjustments after the equalization is completed. R.S.O. 1970, c. 132, s. 6 (10); 1972, c. 1, s. 21.

Assessment for new municipalities

(11) Where any municipality in the district did not exist in the immediately preceding year, the amount that the board estimates will be required from that municipality for the current year shall be in proportion to the amount, estimated by the board, of the assessment of the municipality for the current year, and the board shall in that case reapportion the amount and make the necessary adjustments in accordance with the revised equalized assessment of the municipality for the current year after such revision and equalization is completed. 1973, c. 144, s. 2 (2).

Where equalized assessment appealed

(12) Where in any year the last revised assessment rolls of the municipalities in a district are revised and equalized and have been appealed, the board may apportion the amount that it estimates to be required in proportion to the amounts of their assessments as revised and equalized, and in that case shall reapportion the amount and make the necessary adjustments in accordance with the decision of the Ontario

Municipal Board or the judgment of a court. R.S.O. 1970, c. 132, s. 6 (11).

7. Notwithstanding section 6, during the first four years that a city in a district is a municipality to which this Act applies, the apportionment among the municipalities in the district of the amount or any part thereof required in one or more of those years by the board for the provision of welfare services in respect of the municipalities, including the expenses incurred for the administration of such services, may be determined by an agreement in writing approved by the Minister between the board and the city. R.S.O. 1970, c. 132, s. 7.

Apportionment may be determined by agreement

8. Notwithstanding sections 6 and 7, where a band in a district is a municipality to which this Act applies, the amount or any part thereof required by the board for the provision of welfare services to the members of the band, including the expenses incurred for the administration of such services, shall not be apportioned among the municipalities in the district in accordance with section 6 or 7, but shall be paid by the council of the band to the board in accordance with an agreement in writing approved by the Minister between the board and the council of the band. R.S.O. 1970, c. 132, s. 8.

Expenditures incurred in respect of band to be paid under agreement

9.—(1) Subject to subsection (2), a board may borrow from time to time by way of a promissory note such sums as the board considers necessary to meet the current expenditures of the board until the current revenue is received.

Power of board to borrow for current expenditures

(2) The amount that may be borrowed at any one time for the purpose mentioned in subsection (1) together with the total of any similar borrowings that have not been repaid shall not exceed 25 per cent of the estimated current revenue of the board for the current year.

Maximum borrowings

(3) Until the estimates of the board for the current year under section 6 have been determined, the limitation upon borrowing prescribed in subsection (2) shall be temporarily calculated upon 25 per cent of the estimates for the board determined for the next preceding year. R.S.O. 1970, c. 132, s. 9.

Idem

10. In the first year in which a board is established for a district, the Lieutenant Governor in Council may, out of the moneys appropriated therefor by the Legislature, direct payment to the board of a grant in an amount determined in accordance with the regulations to assist the board to carry out the purposes of this Act during the first year. R.S.O. 1970, c. 132, s. 10.

Provincial grant for first year

Regulations

11. The Lieutenant Governor in Council may make regulations,

- (a) adding to the welfare services mentioned in clause 1 (*h*);
- (b) defining districts for the purposes of clause 1 (*d*);
- (c) providing for the division of each district into areas, the appointment of members representing the areas to each board having regard to the proportionate distribution amongst the areas of population and equalized assessment and providing for the further appointment by the Lieutenant Governor in Council of members at large, prescribing the qualifications for appointment and fixing the number of members for each board and the terms of office of such members;
- (d) governing applications for grants under section 10, and the method, time and manner of the payment of the grants;
- (e) prescribing the manner of determining the amount of a grant for a district for the purposes of section 10;
- (f) providing for the appointment of a chairman of a board, and fixing the term of office of the chairman;
- (g) prescribing the records that shall be kept under this Act and the returns that shall be made to the Minister;
- (h) prescribing forms and providing for their use;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 132, s. 11; 1972, c. 25, s. 2.

CHAPTER 123

Dog Licensing and Live Stock and
Poultry Protection Act

1. In this Act,

Interpre-
tation

- (a) “dog” means a male or female dog;
- (b) “Minister” means the Minister of Agriculture and Food;
- (c) “owner” of a dog includes a person who possesses or harbours a dog, and “owns” and “owned” have a corresponding meaning;
- (d) “pure-bred” means,
 - (i) registered or eligible for registration in the register of The Canadian Kennel Club, Incorporated, or
 - (ii) of a class designated as pure-bred in the regulations;
- (e) “regulations” means the regulations made under this Act. R.S.O. 1970, c. 133, s. 1.

PART I

DOG LICENSING

2.—(1) By-laws may be passed by the councils of local municipalities for licensing and requiring the registration of dogs and for imposing a licence fee on the owners of them with the right to impose a larger fee in the case of female dogs or for each additional dog or female dog where more than one is owned by any one person or in any one household. R.S.O. 1970, c. 133, s. 5 (1).

(2) On payment of the licence fee for a dog, the owner shall be furnished with a dog tag and shall keep the tag securely fixed on the dog at all times until the tag is renewed or

Dog tags

replaced, but the tag may be removed while the dog is being lawfully used for hunting deer in the bush.

Fee
for tag

(3) A fee not exceeding 25 cents may be charged for each tag.

Serial
number
of tag,
etc.

(4) A tag shall bear a serial number and the year in which it was issued and a record shall be kept by the clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.

Offence

(5) Every owner who fails to comply with subsection (2) or who uses a tag upon a dog other than that for which it was issued is guilty of an offence and on conviction is liable to a fine of not more than \$50. 1972, c. 10, s. 4.

Tax on
kennel of
pure-bred
dogs

3. Where a by-law is passed by the council of a local municipality under subsection 2 (1), the owner of a kennel of dogs that are pure-bred shall pay an annual licence fee of \$25 to the treasurer of the municipality as a licence fee for the kennel, and he is not liable to pay in respect of such pure-bred dogs any licence fee under the by-law. 1972, c. 10, s. 5.

Prohibiting
or regulating
the running
at large of
dogs

4.—(1) By-laws may be passed by the council of a local municipality for prohibiting or regulating the running at large of dogs in the municipality or in any defined area thereof, for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law, and for selling dogs so impounded at such time and in such manner as is provided by the by-law. 1972, c. 10, s. 6 (1).

When
deemed
running
at large

(2) For the purpose of this section, a dog shall be deemed to be running at large when found in any place other than the premises of the owner of the dog and not under the control of any person. 1974, c. 94, s. 1 (1).

Penalty

(3) Every owner of a dog who allows it to run at large contrary to a by-law made under this section is guilty of an offence and on conviction is liable to a fine of not more than \$50. 1972, c. 10, s. 6 (2).

No right
of entry
conferred

(4) Nothing in subsection (2) confers on any person a right to enter any premises.

Payment
out of
court

(5) A by-law under this section may provide for the voluntary payment of penalties out of court in cases where it is alleged that any of the provisions of the by-law respecting dogs running at large have been contravened and,

if payment is not made in accordance with the procedure, the fine is recoverable under the *Provincial Offences Act*. 1974, R.S.O. 1980, c. 94, s. 1 (2). c. 400

5. A by-law passed under this Part may impose a fine of not more than \$50, exclusive of costs, upon every person who contravenes the by-law, and every such fine is recoverable under the *Provincial Offences Act*. R.S.O. 1970, c. 133, s. 8. Penalty

6.—(1) The Lieutenant Governor in Council may make regulations for prohibiting or regulating the running at large of dogs in territory without municipal organization or in any defined area thereof, for seizing and impounding, and for killing, whether before or after impounding, dogs running at large contrary to the regulations, and for selling dogs so impounded at such time and in such manner as may be provided in the regulations. Running at large of dogs in unorganized territory

(2) For the purpose of this section, a dog shall be deemed to be running at large when found on public lands or in a public place and not under the control of any person. What constitutes running at large

(3) Every owner of a dog who allows it to run at large contrary to the regulations made under this section is guilty of an offence and on conviction is liable to a fine of not more than \$50. R.S.O. 1970, c. 133, s. 9. Offence

7. The Lieutenant Governor in Council may make regulations designating as pure-bred any class or classes of dogs. R.S.O. 1970, c. 133, s. 10. Regulations

PART II

PROTECTION OF LIVE STOCK AND POULTRY

8. In this Part,

Interpretation

(a) "Board" means the Wolf Damage Assessment Board established under section 18;

(b) "Commissioner" means the Live Stock Commissioner;

(c) "fur-bearing animal" means an animal designated by name as a fur-bearing animal in the *Fur Farms Act* or declared to be a fur-bearing animal in the regulations made thereunder; R.S.O. 1980, c. 181

(d) "injured" in respect of live stock or poultry means injured by wounding, worrying or pursuing, and "injury" has a corresponding meaning;

(e) "live stock" means cattle, fur-bearing animals, goats, horses, rabbits, sheep or swine;

(f) "poultry" includes game birds where the game birds are kept pursuant to a licence under the *Game and Fish Act*;

R.S.O. 1980,
c. 182

(g) "wolf" means any of the species *Canis lupus L.* or *Canis latrans Say* or any cross breed of either. 1974, c. 94, s. 2; 1975, c. 86, s. 1.

When
dogs may
be killed

9. Any person may kill a dog,

(a) that is found killing or injuring live stock or poultry;

(b) that in a township or village is found between sunset and sunrise straying from the premises where the dog is habitually kept;

(c) that is found straying at any time, and not under proper control, upon premises where live stock or poultry are habitually kept. R.S.O. 1970, c. 133, s. 12.

Liability
of municipi-
pality

10.—(1) Where a dog or a wolf kills or injures live stock or poultry and, in the case of killing or injuring by a dog, whether the owner of the dog is known or not, the local municipality in which the killing or injuring occurred is liable to the owner of the live stock or poultry for the amount of damage determined under section 11, and shall pay over such amount to the owner within thirty days after the amount has been so determined. 1974, c. 94, s. 3 (1).

Where
subs. (1) does
not apply

(2) Subsection (1) does not apply,

(a) to live stock or poultry killed or injured while running at large upon a highway or unenclosed land; or

(b) in the case of poultry, where the weight of the poultry killed or injured is less than twenty-five kilograms. R.S.O. 1970, c. 133, s. 13 (2); 1974, c. 94, s. 3 (2, 3); 1978, c. 87, s. 5.

By-law for
damage by
wild
animals

(3) The council of a local municipality may pass a by-law providing that where live stock or poultry are killed or injured by wild animals, other than wolves, in the municipality, subsection (1) applies in the same manner as where live stock or poultry are killed or injured by a dog or wolf, but the council in the by-law may fix the maximum amount

payable for any head of live stock so killed or injured in any year and may fix the proportion of the damages ascertained under section 11 that is payable. 1974, c. 94, s. 3 (4).

11.—(1) The council of every local municipality shall appoint one or more persons as valuers of live stock and poultry for the purposes of this Act. R.S.O. 1970, c. 133, s. 14 (1). Appointment
of valuers

(2) Where the owner of live stock or poultry discovers that any of his live stock or poultry has been killed or injured and to the best of his knowledge and belief such killing or injuring was done by a wolf or by a dog other than a dog owned by him or habitually kept upon his premises, he shall immediately notify a valuer for the local municipality in which the live stock or poultry were killed or injured or the clerk of such municipality who shall forthwith notify a valuer, and such valuer shall immediately make full investigation and shall make his report in writing within ten days thereafter to the clerk of the municipality giving in detail the extent and amount of the damage and his award therefor, and he shall at the same time forward a copy of such report to the owner of the live stock or poultry. Investigation and
report
by valuer

(3) Where the owner of live stock or poultry notifies a valuer or a clerk of a municipality under subsection (2), he shall, within ten days, file with the clerk an affidavit that to the best of his knowledge and belief the live stock or poultry were killed or injured by a wolf or by a dog other than a dog owned by him or habitually kept upon his premises. 1974, c. 94, s. 4 (1). Affidavit
of owner

(4) Where the valuer finds evidence that to the best of his knowledge and belief shows, Denial of
liability

- (a) that any of the live stock or poultry was not killed or injured by a dog or a wolf; or
- (b) that the killing or injuring was caused by a dog owned by or habitually kept on the premises of the owner of the live stock or poultry; or
- (c) that the owner had not taken reasonable care to prevent the killing or injuring of his live stock or poultry by dogs or wolves,

the valuer shall include in his report to the clerk of the local municipality and to the owner of the live stock or poultry a

statement of his belief and shall make forthwith a further report to the clerk of the municipality giving particulars of the evidence found, and the council of the municipality may thereupon deny liability in whole or in part by written notice given by the clerk of the municipality to the owner of the live stock or poultry within thirty days after the filing of his affidavit with the clerk. R.S.O. 1970, c. 133, s. 14 (4); 1974, c. 94, s. 4 (2).

Report of
valuer

(5) The valuer shall include in his report a finding as to whether the live stock or poultry were killed or injured by dogs or by wolves. 1974, c. 94, s. 4 (3).

Damages
limited

(6) The amount of damage for which the local municipality is liable shall not include damage incurred under the circumstances set out in clause (4) (a), (b) or (c) and for which the municipality has denied liability in accordance with subsection (4).

Where
carcass
not to be
destroyed

(7) The owner of live stock or poultry shall not destroy or permit to be destroyed the carcass of any live stock or poultry reported killed under subsection (2) until the carcass has been seen by the valuer.

Appeal to
Commis-
sioner

(8) Where the owner of live stock or poultry or the council is dissatisfied with the report of the valuer made under subsection (2), the owner or the council may appeal to the Commissioner who shall name a valuer, and the valuer so named shall make a further investigation and report.

Time for
appeal;
deposit

(9) Such appeal shall be made within thirty days after the making of the report to the clerk of the local municipality by its valuer, and \$25 shall be deposited with the Commissioner at the time of making the appeal to be forfeited to the Crown if the report of the valuer for the local municipality is sustained on an appeal under this section. R.S.O. 1970, c. 133, s. 14 (5-8).

Where no
municipal
valuer,
etc.

(10) Where there is no valuer of the local municipality or the clerk or the valuer does not discharge the duties imposed on him by this Act, the Commissioner, on the application of the owner of any live stock or poultry killed or injured by a wolf or by a dog other than a dog owned by him or habitually kept upon his premises, shall name a valuer, and the valuer so named shall make an investigation and report, and the municipality shall pay to the Commissioner the cost of such investigation and report as fixed by him. 1974, c. 94, s. 4 (4).

(11) A copy of the report of a valuer named by the Commissioner under subsection (8) or (10) shall be forwarded by the Commissioner as soon as practicable to the clerk of the local municipality and to the owner of the live stock or poultry. Report of valuer appointed by Commissioner

(12) A valuer named by the Commissioner under subsection (8) or (10) shall, where applicable, include in his report a statement of his belief that the amount of damage to live stock or poultry includes damage incurred under the circumstances set out in clause (4) (a), (b) or (c), and the council of the municipality may thereupon deny liability in whole or in part by written notice given by the clerk of the municipality to the owner of the live stock or poultry within thirty days after receipt of the report of the valuer. Idem

(13) Where the owner of live stock or poultry or the council is dissatisfied with the report of the valuer made under subsection (8) or (10), the owner or the council may, within thirty days after receipt of the report, appeal to a judge of the county or district court of the county or district in which the municipality is situate, and the judge may determine the liability of the municipality and, subject to subsection (14), the amount payable to the owner. Appeal from report of valuer R.S.O. 1970, c. 133, s. 14 (10-12).

(14) No municipality shall be liable to an owner for an amount in respect of live stock or poultry in excess of the maximum amount prescribed therefor in the regulations. Amount of liability limited 1979, c. 55, s. 1.

12. A local municipality having paid to the owner of live stock or poultry the amount of the damage ascertained under section 11 is entitled to recover the amount so paid from the owner of the dog that did the damage in any court of competent jurisdiction without proving that it was vicious or accustomed to worry live stock or poultry. Right of recovery from owner of dog R.S.O. 1970, c. 133, s. 15.

13.—(1) The council of a municipality may conduct an inquiry in order to ascertain the owner of a dog that has killed or injured live stock or poultry within the municipality. Inquiry to ascertain owner of dog

(2) The council of a municipality for the purposes of an inquiry under subsection (1) has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. Powers on inquiry R.S.O. 1980, c. 411 1971, c. 50, s. 33.

14. Where it appears that the damage was caused by more dogs than one, the council may apportion the damage in such Apportionment of damage

manner as is considered just having regard to the strength, ferocity and character of such dogs. R.S.O. 1970, c. 133, s. 17.

Duty to
destroy
dog

15.—(1) Where the owner of a dog has knowledge that the dog has killed or injured live stock or poultry, he shall destroy the dog or cause the dog to be destroyed within forty-eight hours after acquiring such knowledge.

Failure to
destroy dog

(2) Where the owner of a dog refuses or neglects to destroy it when required so to do by subsection (1), he may be summoned before a provincial judge who may order the dog to be destroyed, and for the purpose of carrying out the order a constable may enter upon the premises of the owner and destroy the dog, and the provincial judge may, in addition to any other penalty provided by this Act, direct the owner of the dog to pay the cost of the proceedings and of the destruction of the dog. R.S.O. 1970, c. 133, s. 18.

Liability
of owner in
unorganized
territory

16.—(1) Where in territory without municipal organization live stock or poultry are killed or injured by a dog, the owner of the dog is liable to the owner of the live stock or poultry for the amount of the damage, and it is not necessary in an action to recover the amount of such damage to prove that the dog was vicious or accustomed to worry live stock or poultry. R.S.O. 1970, c. 133, s. 19.

Payment
of com-
pensation

(2) Where in territory without municipal organization live stock or poultry are killed or injured by a wolf, the Commissioner may pay compensation to the owner of the live stock or poultry for the amount of the damage determined under subsection (3).

Determina-
tion of
amount of
compensa-
tion

(3) For the purpose of determining the amount of compensation that may be paid under subsection (2), the Commissioner may exercise any of the powers of a council of a municipality under section 11, and the procedures prescribed under subsections 11 (1) to (7) and (13) and (14) apply with necessary modifications. 1974, c. 94, s. 5.

Reports to
be submitted
to Com-
missioner

17. Every municipality that has paid any damage ascertained under section 11 respecting damage by wolves to an owner shall submit reports thereon to the Commissioner at such times and in such form and manner as is prescribed in the regulations and such reports shall include a report on the number of claims paid, the amount of each such claim and the findings of the valuer as to whether the live stock or poultry were killed or injured by dogs or by wolves. 1974, c. 94, s. 6, *part*.

18.—(1) There shall be a board to be known as the Wolf Damage Assessment Board that shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, none of whom shall be members of the public service in the employ of the Ministry of Agriculture and Food and who shall hold office during pleasure.

Wolf Damage
Assessment
Board

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Chairman,
vice-
chairman

(3) A majority of the members of the Board constitutes a quorum.

Quorum

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. 1974, c. 94, s. 6, *part.*

Remun-
eration

19. Upon application therefor by a municipality in the manner prescribed in the regulations, the Commissioner may, out of the moneys appropriated therefor by the Legislature, authorize the payment of grants so as to reimburse the municipality for any damage ascertained under section 11 and paid by the municipality to an owner where the damage was caused by wolves, and, subject to section 20, no hearing is required in considering whether or not a grant shall be paid. 1974, c. 94, s. 6, *part.*

Payment of
grants to
municipality

20.—(1) Where the Commissioner has reason to believe that any damage paid by a municipality for which application has been made for a grant under section 19 may not have been caused by wolves, he shall refer the application to the Board by notice in writing delivered to the municipality and filed with the Board.

Referral of
application
to Board

(2) Where an application has been referred to the Board under subsection (1), the Board shall, after a hearing, determine whether or not the whole or any part of the damage referred to in the application was caused by wolves and the decision of the Board shall, as to whether or not any such damage was caused by wolves, be binding on the Commissioner.

Board may
determine
whether
damage
caused by
wolves

(3) The Commissioner, the municipality and such other persons as the Board may specify, are parties to the proceedings before the Board under this Act.

Parties to
proceedings
before the
Board

(4) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or

Members
making
decision
not to
have taken
part in
investi-
gation.
etc.

indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Findings
of fact

(5) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,
c. 484

Only
members
at hearing
to partici-
pate in
decision

(6) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Application

(7) Part I of the *Statutory Powers Procedure Act* applies with respect to a hearing by the Board under this section. 1974, c. 94, s. 6, *part*.

Times and
procedures,
directory

21. The times and procedures set out in this Part shall be regarded as directory, and a proceeding that is in substantial conformity with this Part is not open to objection on the ground that it is not in strict compliance therewith. R.S.O. 1970, c. 133, s. 20.

Offence

22. Every person who contravenes any of the provisions of this Part is guilty of an offence and on conviction is liable to a fine of not more than \$50. R.S.O. 1970, c. 133, s. 21.

Regulations

23. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form and manner in which reports required under section 17 shall be made and the times at which such reports shall be submitted;
- (b) prescribing the manner in which an application shall be made under section 19;
- (c) prescribing forms and providing for their use;
- (d) prescribing maximum amounts for,

- (i) live stock and poultry or any species or class thereof for the purposes of subsection 11 (14), and
- (ii) honey bees and hive equipment for the purposes of subsection 24 (3). 1974, c. 94, s. 6, *part*; 1979, c. 55, s. 2.

PART III

DAMAGE TO HONEY BEE COLONIES BY BEARS

24.—(1) Where a colony of honey bees is damaged or destroyed by a bear, the Commissioner, on the application of the owner of the colony, may pay compensation to the owner in such amount as he considers reasonable. Payment of compensation

(2) For the purpose of determining the amount of compensation that may be paid under subsection (1), the Commissioner may appoint a valuer to make an investigation and the valuer so appointed shall make an investigation and shall make his report in writing within ten days thereafter to the Commissioner together with his recommendations respecting compensation. 1974, c. 94, s. 7. Investigation and report by valuer

(3) No payment in respect of a colony of honey bees shall exceed the maximum amount prescribed for honey bees and hive equipment in the regulations. 1979, c. 55, s. 3. Amount of payment limited

PART IV

LIMITATION ON AMOUNT OF COMPENSATION

25. Subject to subsection 11 (14), subsection 24 (3) and section 26, where compensation is payable under this Act, the amount payable shall not exceed the market value of the live stock, poultry, honey bees or hive equipment at the time of the death, injury or damage in respect of which payment is made. 1979, c. 55, s. 4, *part*. Amount of payment limited

26. Where an owner receives an amount under a contract of insurance by reason of the death of or injury to live stock or poultry or damage to or the destruction of honey bees or hive equipment for which compensation is payable under this Act, for the purpose of calculating the amount of compensation, the market value of the live stock, poultry, honey bees or hive equipment shall be deemed to be reduced by that amount. 1979, c. 55, s. 4, *part*. Reduction in market value by reason of insurance

CHAPTER 124

Dog Owners' Liability Act

1. In this Act, "owner", when used in relation to a dog, includes a person who possesses or harbours the dog and, where the owner is a minor, the person responsible for the custody of the minor. 1980, c. 65, s. 1.

Interpretation

2.—(1) The owner of a dog is liable for damages resulting from a bite or attack by the dog on another person.

Liability of owner

(2) Where there is more than one owner of a dog, they are jointly and severally liable under this section.

Where more than one owner

(3) The liability of the owner does not depend upon *scienter* or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages.

Extent of liability

(4) An owner who is liable to pay damages under this section is entitled to recover contribution and indemnity from any other person in proportion to the degree to which the other person's fault or negligence caused or contributed to the damages. 1980, c. 65, s. 2.

Contribution by person at fault

3.—(1) Where damage is caused by being bitten or attacked by a dog on the premises of the owner, the liability of the owner is determined under this Act and not under the *Occupiers' Liability Act*.

Application of R.S.O. 1980, c. 322

(2) Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable under section 2 unless the keeping of the dog on the premises was unreasonable for the purpose of the protection of persons or property. 1980, c. 65, s. 3.

Protection of property

4.—(1) Where it is alleged that a dog has bitten or attacked a person, a proceeding may be commenced against the owner of the dog and the proceeding is one to which Part VIII of the *Provincial Offences Act* applies.

Proceeding against owner of dog R.S.O. 1980, c. 400

Order

(2) Where, in a proceeding under subsection (1), the provincial offences court finds that the dog has bitten or attacked a person, and the court is satisfied that an order is necessary for the protection of the public, the court may order,

- (a) that the dog be destroyed in such manner as is provided in the order; or
- (b) that the owner of the dog take such steps as are provided in the order for the more effective control of the dog.

Considerations

(3) In exercising its powers to make an order under subsection (2), the court may take into consideration the following circumstances:

- 1. The past and present temperament and behaviour of the dog.
- 2. The seriousness of the injuries caused by the biting or attack.
- 3. Unusual contributing circumstances tending to justify the action of the dog.
- 4. The improbability that a similar attack will be repeated.
- 5. The dog's physical potential for inflicting harm.
- 6. Precautions taken by the owner to preclude similar attacks in the future.
- 7. Any other circumstances that the court considers to be relevant.

Penalty

(4) An owner who contravenes an order made under subsection (2) is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000. 1980, c. 65, s. 4.

CHAPTER 125

Dominion Courts Act

1. The Supreme Court of Canada and the Federal Court of Canada, or the Supreme Court of Canada alone, according to the *Supreme Court Act* (Canada) and the *Federal Court Act* (Canada) have jurisdiction,

R.S.C. 1970,
c. S-19,
c. 10 (2nd
Supp.)

- (a) in controversies between Canada and Ontario;
- (b) in controversies between any other province of Canada in which an Act similar to this Act is in force and Ontario;
- (c) in actions or proceedings in which the parties by their pleadings have raised the question of the validity of an Act of the Parliament of Canada or of an Act of the Legislature of Ontario, when in the opinion of a judge of the court in which the same are pending the question is material, and in such case the judge shall, at the request of the parties, and may without such request if he thinks fit, order the case to be removed to the Supreme Court of Canada in order that the question may be decided.
R.S.O. 1970, c. 134, s. 1.

2. Where sittings of a court created by the Parliament of Canada, or of a judge thereof, are appointed to be held in a place in which a court house is situate, such court or judge has in all respects the same authority as a judge of the Supreme Court of Ontario in regard to the use of the court house and other buildings or apartments set apart in that place for the administration of justice. R.S.O. 1970, c. 134, s. 2.

Use of court
house, etc.,
by Federal
court judges

CHAPTER 126

Drainage Act

1. In this Act,

Inter-
pretation

1. “benefit” means the advantages to any lands, roads, buildings or other structures from the construction, improvement, repair or maintenance of a drainage works such as will result in a higher market value or increased crop production or improved appearance or better control of surface or subsurface water, or any other advantages relating to the betterment of lands, roads, buildings or other structures;
2. “benefit cost statement” means a statement relating the anticipated benefits expressed in dollars to the total estimated cost of the drainage works;
3. “built-up area” means an area of land where,
 - i. not less than 50 per cent of the frontage upon one side of a road for a distance of not less than 200 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
 - ii. not less than 50 per cent of the frontage upon both sides of a road for a distance of not less than 100 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
 - iii. not more than 200 metres of a road separates any land described in subparagraph i or ii from any other land described in subparagraph i or ii, or
 - iv. a plan of subdivision has been registered;
4. “commissioner” means a commissioner appointed by a municipality by by-law;
5. “conservation authority” means a conservation authority established under the *Conservation Authorities Act*;

R.S.O. 1980,
c. 85

6. "county" includes a provisional judicial district;
7. "county court" includes a district court;
8. "court of revision" means a court of revision constituted under this Act;
9. "Director" means the Director appointed for the purposes of this Act;
10. "drainage superintendent" means a drainage superintendent appointed by a municipality by by-law;
11. "drainage works" includes a drain constructed by any means, including the improving of a natural watercourse, and includes works necessary to regulate the water table or water level within or on any lands or to regulate the level of the waters of a drain, reservoir, lake or pond, and includes a dam, embankment, wall, protective works or any combination thereof;
12. "engineer" means an engineer registered under the *Professional Engineers Act* or a surveyor registered under the *Surveyors Act*, or a partnership, association of persons or corporation that holds a certificate of authorization under the *Professional Engineers Act* or the *Surveyors Act*, as the case may be;
13. "improvement" means any modification of or addition to a drainage works intended to increase the effectiveness of the system;
14. "initiating municipality" means the local municipality undertaking the construction, improvement, repair or maintenance of a drainage works to which this Act applies;
15. "injuring liability" means the part of the cost of the construction, improvement, maintenance or repair of a drainage works required to relieve the owners of any land or road from liability for injury caused by water artificially made to flow from such land or road upon any other land or road;
16. "lateral drain" means a drain that is designed for the drainage of one property and that begins and ends on the same property;

17. "maintenance" means the preservation of a drainage works;
18. "Minister" means the Minister of Agriculture and Food;
19. "outlet liability" means the part of the cost of the construction, improvement or maintenance of a drainage works that is required to provide such outlet or improved outlet;
20. "owner" includes a committee of the estate of a mentally incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;
21. "preliminary report" means an engineer's report containing the information specified in section 10;
22. "property" means a parcel of land that by the *Assessment Act* is required to be separately assessed; R.S.O. 1980, c. 31
23. "public utility" means a person having jurisdiction over any water works, gas works, electric heat, light and power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessities or conveniences;
24. "referee" means the referee appointed under this Act;
25. "repair" means the restoration of a drainage works to its original condition;
26. "report" means an engineer's report containing the information specified in section 8;
27. "road authority" means a body having jurisdiction and control of a common or public highway or road, or any part thereof, including a street, bridge and any other structure incidental thereto and any part thereof;
28. "special benefit" means any additional work or feature included in the construction, repair or improvement of a drainage works that has no effect on the functioning of the drainage works;

29. "sufficient outlet" means a point at which water can be discharged safely so that it will do no damage to lands or roads;
30. "Tribunal" means The Ontario Drainage Tribunal under this Act. 1975, c. 79, s. 1; 1978, c. 87, s. 6 (1).

MUTUAL AGREEMENT DRAINS

Mutual
agreement
re drainage
works

2.—(1) When two or more owners of land desire to construct or improve a drainage works on any of their lands and are willing to pay the cost thereof, they may enter into a written agreement for the construction, improvement, financing and maintenance of such drainage works, which shall include the following:

R.S.O. 1980,
c. 126

1. A reference to the *Drainage Act*.
2. Descriptions of the lands of the parties to the agreement sufficient for the purposes of registration in the proper land registry office.
3. The estimated cost of the drainage works.
4. A description of the drainage works, including its nature and approximate location.
5. The proportion of the cost of the construction, improvement and maintenance of the drainage works that is to be borne by each of the owners of the lands.
6. The date the agreement was entered into.
7. An affidavit of a subscribing witness to the execution of the agreement by the parties sufficient for the purposes of registration in the proper land registry office.

Filing
of agreement

(2) A copy of the agreement and the plans and schedules, if any, of the proposed drainage works may be filed with the clerk of the local municipality in which the land or any part thereof is situate, and the agreement or an executed copy thereof may be registered in the proper land registry office.

Registered
agreement
binding on
successors

(3) An agreement made under this section shall, upon registration in the proper land registry office of the agreement or an executed copy thereof, be binding upon the heirs, executors, administrators, successors and assigns of each party to the agreement.

(4) The subsequent provisions of this Act do not apply to any drainage works constructed under this section. 1975, c. 79, s. 2. Exception

REQUISITION DRAINS

3.—(1) Where it is necessary, for the proper drainage of any lands, that a drainage works should be constructed thereon or constructed thereon and through the land of one or more adjacent owners, the owner of the land requiring or to be benefitted by such drainage may file with the clerk of the local municipality in which the land is situate a requisition in the Form prescribed by the regulations requesting that an engineer be appointed. Drainage works constructed on requisition

(2) Upon filing the requisition, the owner shall deposit with the clerk of the municipality the sum of \$300 to be used toward defraying the expenses incurred consequent thereon, which sum shall be taken into consideration by the engineer in apportioning costs. Deposit for expenses

(3) No drainage works, the total estimated cost of which will exceed \$7,500, shall be constructed under this section. Limit of cost

(4) For the purposes of calculating the total estimated cost in subsection (3), the cost of crossing lands occupied by the works of a public utility or road authority shall not be included. 1975, c. 79, s. 3 (1-4). Cost not included

(5) Only lands lying within 750 metres from the sides of the drainage works and land lying within 750 metres from the upstream point of commencement of the drainage works may be assessed under this section. 1975, c. 79, s. 3 (5); 1978, c. 87, s. 6 (2). Limit of area to be assessed

(6) The council of the local municipality, upon the filing of the requisition, shall, by by-law or resolution, appoint an engineer to make an examination of the area and to make a preliminary report. Duty of council

(7) The engineer shall, before making his examination and report, cause the clerk of the local municipality to send to each owner of land and to each public utility that may be affected by such drainage works as set out in the requisition at least seven days written notice in the Form prescribed by the regulations by prepaid mail, addressed to each such owner at his address as shown by the last revised assessment roll, of the date, time and place of an on-site meeting with the engineer to examine the area. Notice of examination

Statements

(8) The engineer shall file with his preliminary report a benefit cost statement and a statement of the anticipated effects of the drainage works on the local environment.

Engineer
to set out
requirements

(9) The engineer in his preliminary report shall set out the requirements for a petition sufficient to comply with section 4.

Duty
of council

(10) Upon the filing of the engineer's preliminary report, the council of the local municipality shall cause the clerk to send by prepaid mail to each owner of lands to be affected by the drainage works as set out in the requisition and to the Minister, a notice stating the name or other designation of the drainage works and the date of the council meeting at which the preliminary report will be considered.

Copy
of report,
etc.

(11) A copy of the preliminary report, the benefit cost statement and the statement of the anticipated effect on the local environment must accompany each notice sent under subsection (10).

Duty of
clerk

(12) Unless the owner who filed the requisition files with the clerk of the local municipality a petition sufficient to comply with section 4 within sixty days of the meeting at which the report was considered, the clerk shall send, by prepaid mail, to such owner, notice that unless the requisition is withdrawn or a petition is filed within thirty days from the date the notice was sent, the council of the local municipality shall instruct the engineer to prepare a report.

Power of
council

(13) Where a petition sufficient to comply with section 4 is filed within the time limits prescribed by subsection (12), the council of the local municipality shall proceed in the manner prescribed for a petition under section 4.

Duty of
council

(14) Unless the requisition is withdrawn or a petition is filed with the council of the local municipality within the time limits prescribed by subsection (12), the council by by-law or resolution shall instruct the engineer to prepare a report.

Idem

(15) Notwithstanding any other provision of this Act, upon the filing of the report, unless the requisition is withdrawn, the council of the local municipality shall, subject to any appeal that may be taken, adopt the report and proceed to implement it in accordance with this Act.

Appeals

(16) Upon the filing of a report, an appeal lies therefrom to the same tribunals and as nearly as may be possible in

the same manner and on the same grounds as in the case of a report for the construction of a drainage works commenced by petition under section 4.

(17) Where the requisition is withdrawn or the drainage works is not proceeded with under requisition as a result of an appeal, the owner who filed the requisition is chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with the requisition, and the sum with which such owner is chargeable shall be entered upon the collector's roll for the municipality against the lands of the owner, and shall be collected in the same manner as real property taxes. Collection of expenses

(18) Every ditch constructed under *The Ditches and Water-courses Act*, being chapter 109 of the Revised Statutes of Ontario, 1960, shall be maintained in accordance with the award of the engineer providing for such maintenance until such ditch is brought under the provisions of this Act by requisition in the manner prescribed by subsection (1) or by petition as set out in section 4. 1975, c. 79, s. 3 (6-18). Existing ditches

PETITION DRAINS

4.—(1) A petition for the drainage by means of a drainage works of an area requiring drainage as described in the petition may be filed with the clerk of the local municipality in which the area is situate by, Petition

- (a) the majority in number of the owners, as shown by the last revised assessment roll of lands in the area, including the owners of any roads in the area;
- (b) the owner or owners, as shown by the last revised assessment roll, of lands in the area representing at least 60 per cent of the hectarage in the area;
- (c) where a drainage works is required for a road or part thereof, the engineer, road superintendent or person having jurisdiction over such road or part, notwithstanding subsection 61 (5); or
- (d) where a drainage works is required for the drainage of lands used for agricultural purposes, the Director. 1975, c. 79, s. 4 (1); 1980, c. 1, s. 1.

(2) A petition under subsection (1) shall be in the form prescribed by the regulations and, where it is filed by an owner or owners under clause (1) (a) or (b), shall be signed by such owner or owners. Form of petition

Petition
where area
lies on
each side of
boundary
line

(3) Where it is desired to construct a drainage works for the drainage of an area composed of lands or roads lying on each side of a boundary line between two or more local municipalities, the council of any of them may proceed upon a petition as required by this Act in all respects, including the sending of notices, as if such area were entirely within the limits of the municipality.

Person
deemed
owner

(4) Where a person who is the owner of land, but does not appear by the last revised assessment roll of the municipality to be the owner, is a petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and, if the person who appears by the assessment roll to be the owner is a petitioner, his name shall be disregarded in determining the sufficiency of the petition. 1975, c. 79, s. 4 (2-4).

Persons
jointly
assessed

(5) Where two or more persons are jointly assessed for a property, in determining the sufficiency of a petition they shall be deemed to be one owner. 1975, c. 79, s. 4 (5); 1976, c. 8, s. 1.

Drainage
works
constructed
on petition

5.—(1) Where a petition in accordance with section 4 has been filed, the council shall forthwith consider the petition and shall, within thirty days after the filing of the petition,

- (a) if it decides not to proceed with the drainage works, give written notice of its decision to each petitioner; or
- (b) if it decides to proceed with the drainage works, give written notice of the petition and of its decision to each petitioner, the clerk of each local municipality that may be affected, and the conservation authority that has jurisdiction over any lands in the area or, if no such conservation authority exists, the Minister of Natural Resources.

Appeal
to
Tribunal

(2) Where a petitioner,

- (a) receives notice under clause (1) (a) of a decision of the council not to proceed with the drainage works; or
- (b) has not, within thirty days after the filing of the petition, received notice of a decision of the council,

the petitioner may appeal to the Tribunal or, where lands used for agricultural purposes are included in the area described in the petition, the Minister may refer the matter

to the Tribunal, and the Tribunal may confirm the decision of the council or direct the council to make such decision and to take such action as the council is authorized to take under this Act and as the Tribunal considers proper. 1975, c. 79, s. 5.

6.—(1) Upon receipt of a notice from the initiating municipality under subsection 5 (1), a local municipality, conservation authority or the Minister of Natural Resources, as the case may be, may send to the council of the initiating municipality within thirty days a notice that an environmental appraisal of the effects of the drainage works on the area is required, and the cost thereof shall be paid by the party who requested it.

Notice that
environ-
mental
appraisal is
required

(2) The council of the initiating municipality may obtain an environmental appraisal on its own initiative, the cost of which shall be paid by the municipality from its general funds.

Authorization
for environ-
mental
appraisal

(3) The party requesting the environmental appraisal or the council of the initiating municipality, as the case may be, within forty days of receiving the account therefor, may appeal to the Tribunal, and the Tribunal may confirm or vary the account as it considers proper. 1975, c. 79, s. 6.

Appeal

7.—(1) The council of any local municipality to which notice was given under subsection 5 (1) or the Minister may send to the council of the initiating municipality within thirty days a notice that a benefit cost statement is required and the cost of preparing such statement shall be paid by the party who required it.

Benefit cost
statement

(2) The council of the initiating municipality may obtain a benefit cost statement on its own initiative, the cost of which shall be paid by the municipality from its general funds. 1975, c. 79, s. 7.

Idem

8.—(1) Where the council of the initiating municipality has decided to proceed with the drainage works described in a petition, the council shall, by by-law or resolution, appoint an engineer to make an examination of the area requiring drainage as described in the petition and to prepare a report which shall include,

Appointment
of engineer

- (a) plans, profiles and specifications of the drainage works, including a description of the area requiring drainage;
- (b) an estimate of the total cost thereof;
- (c) an assessment of the amount or proportion of the cost of the works to be assessed against every parcel

of land and road for benefit, outlet liability and injuring liability;

(d) allowances, if any, to be paid to the owners of land affected by the drainage works; and

(e) such other matters as are provided for under this Act. 1975, c. 79, s. 8 (1); 1980, c. 1, s. 2.

Where
engineer is a
corporation,
etc.

(2) Where the engineer appointed under this Act is a corporation, association or partnership, the appointee shall, within ten days of the date of appointment, notify the council of the name of the individual engineer who will have charge of the project and who will remain in charge until the report is filed and if for any reason the designated engineer ceases to be employed by the appointee, the appointee shall within ten days of such time notify the council of the name of his replacement.

Appeal
or referral
to Tribunal

(3) Where the council fails to appoint an engineer within sixty days after giving notice of its decision to proceed, any petitioner may appeal to the Tribunal or, where the petition was signed by the Director or where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Tribunal, and the Tribunal may direct the council to take such action as the council is authorized to take under this Act and as the Tribunal considers proper.

One report
on two or
more
petitions

(4) The council of the initiating municipality may instruct the engineer to make one report with respect to two or more petitions requiring drainage in two or more adjoining areas that require drainage. 1975, c. 79, s. 8 (2-4).

Notice

9.—(1) The engineer shall, before making his examination and report, cause the clerk of the local municipality to send at least seven days written notice in the Form prescribed by the regulations to each owner of lands within the area requiring drainage as described in the petition and to each public utility that may be affected by the petition setting out the time and place of an on-site meeting with the engineer to examine the area.

Duty of
engineer

(2) At the on-site meeting, the engineer shall,

(a) determine the area requiring drainage;

(b) determine whether the petition complies with section 4 for the area requiring drainage; and

- (c) where he is of opinion that the petition fails to so comply, establish the requirements for a petition to comply with section 4.

(3) Where the engineer is of opinion that the petition ^{Idem} complies with section 4, he shall proceed to prepare his report or a preliminary report, as the case may be.

(4) Where the engineer is of opinion that the petition ^{Report of engineer} does not comply with section 4, he shall so report to the council of the initiating municipality stating wherein the petition is deficient, the amount of his fees and by whom they shall be paid, and the council shall forthwith send a copy of such opinion to each petitioner.

(5) Where, within sixty days of the engineer's reporting ^{Fees to form part of costs} to council under subsection (4), a petition that complies with the requirements of section 4 is filed with the clerk of the council,

(a) the council shall instruct the engineer to prepare his report, or a preliminary report, as the case may be; and

(b) the fees mentioned in subsection (4) shall form part of the cost of the drainage works. 1975, c. 79, s. 9.

10.—(1) Where the council of the initiating municipality ^{Preliminary report} deems it expedient, it may, or if it has received notice under section 6 that an environmental appraisal is required, it shall instruct the engineer to prepare a preliminary report containing a sketched plan of the drainage works and an estimate of the cost thereof in so far as it is practicable to do so, and which shall include the environmental appraisal, if any, and the benefit cost statement, if any, and the engineer shall forthwith prepare and file such a preliminary report with the council.

(2) Upon the filing of the preliminary report, the council ^{Consideration of report} of the initiating municipality shall cause the clerk to send a copy of the preliminary report and a notice of the date of the council meeting at which the preliminary report will be considered, to,

(a) every owner of land within the area requiring drainage as determined by the engineer or described in the petition, as the case may be;

(b) any public utility or road authority that may be affected by the drainage works;

(c) any local municipality and conservation authority entitled to notice under section 5 or, if no authority is entitled to notice, to the Minister of Natural Resources; and

(d) the Minister.

Withdrawal
from
petition

(3) At the meeting referred to in subsection (2), the council shall consider the preliminary report and shall give to any person who signed the petition an opportunity to withdraw from it by putting his withdrawal in writing, signing it and filing it with the clerk, and to any person present who owns land in the area requiring drainage and has not signed the petition an opportunity to do so.

Cost of
petition and
preliminary
report

(4) If at the end of the meeting the petition does not contain a sufficient number of names to comply with section 4, the original petitioners are chargeable in equal shares with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and preliminary report, excluding the amount of any grants and the costs of any environmental appraisal or benefit cost statement, and the sum with which each of such petitioners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the person liable and shall be collected in the same manner as real property taxes.

Instruction
to engineer

(5) If at the end of the meeting, the petition contains a sufficient number of names to comply with section 4, the council may instruct the engineer to proceed with the preparation of his report.

Appeal to
Tribunal

(6) Where the council of the initiating municipality fails to instruct the engineer to proceed with the preparation of his report, any petitioner may appeal to the Tribunal or, where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Tribunal and the Tribunal may direct the council to take such action as the council is authorized to take under this Act and as the Tribunal considers proper.

Idem

(7) Where any party mentioned in clause (2) (a), (b) or (c) is dissatisfied with the environmental appraisal, an appeal lies to the Tribunal.

Referral to
Tribunal

(8) Where,

(a) lands used for agricultural purposes are included in the area to be drained, the Minister; or

(b) a conservation authority or regional office of the Ministry of Natural Resources reports to the Minister

of Natural Resources that the environmental appraisal is unsatisfactory, the Minister of Natural Resources,

may refer the environmental appraisal to the Tribunal.

(9) An appeal under subsection (7) or a reference under subsection (8) shall be made within forty days after the meeting referred to in subsection (2), and the Tribunal may confirm the environmental appraisal or direct that it be reconsidered in such respects as the Tribunal considers proper. 1975, c. 79, s. 10.

Powers of
Tribunal

ENGINEER'S REPORT

11. The engineer shall, to the best of his skill, knowledge, judgment and ability, honestly and faithfully, and without fear of, favour to or prejudice against any person, perform the duty assigned to him in connection with any drainage works and make a true report thereon. 1975, c. 79, s. 11.

Duties of
engineer

12.—(1) The engineer or any of his assistants when engaged in the performance of their duties during or after the examination of the locality may enter, measure along, ascertain the bearings of any line, plant the stakes that they consider necessary for the performance of the work and take levels on the land of any person.

Power to
enter on
lands

(2) Every person who wilfully interferes with or obstructs the engineer or any of his assistants in the exercise of the powers conferred by this section is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1975, c. 79, s. 12.

Offence,
obstruction
of engineer

13.—(1) The engineer in making his survey shall establish sufficient bench marks or permanent levels by which a drainage works may be governed, and shall in his report record the description, location and elevation of every bench mark or permanent level.

Duties re
survey

(2) Every person who interferes with, removes or destroys any bench mark or permanent level established under this section is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1975, c. 79, s. 13.

Offence,
interference
with bench
marks

14.—(1) Subject to subsection (2), the construction of a drainage works by means of the improvement of a natural watercourse shall not include a covered drainage works,

Providing
capacity for
covered
drainage
works

unless the part of the drainage works in which the covered drainage works is included provides capacity for all the surface water from the lands and roads draining naturally towards and into it and for all the waters from all the lands and roads assessed for the drainage works.

Covered
drainage
works may
be employed

(2) A covered drainage works may be employed in conjunction with an open drain provided that the total capacity of the system is sufficient for the purposes of subsection (1). 1975, c. 79, s. 14.

Sufficient
outlet

15. Subject to section 32, every drainage works constructed under this Act shall be continued to a sufficient outlet. 1975, c. 79, s. 15.

Report re
disposal
of material
taken from
drainage
works

16. The engineer in his report shall determine in what manner the material taken from any drainage works in the construction, improvement, repair, or maintenance thereof shall be disposed of. 1975, c. 79, s. 16.

Bridges and
culverts
on roads

17. The engineer in his report shall provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage works rendered necessary by the drainage works crossing any public road or part thereof. 1975, c. 79, s. 17.

Construction
of bridges,
etc.

18. Subject to section 33, the engineer in his report shall provide for the construction or the replacement, enlargement or other improvement of bridges, culverts, pumping stations and water gates rendered necessary by the drainage works and he shall include the cost of the construction or the replacement, enlargement or other improvement of such bridges, pumping stations, water gates and culverts, in his assessment for the construction, improvement, maintenance or repair of the drainage works, and they shall, for the purposes of maintenance or repair be deemed part of the drainage works. 1975, c. 79, s. 18.

Engineer
may
recommend
abandonment
of drain

19. The engineer in his report may recommend the abandonment of any drain or part thereof that is no longer useful or that is being supplanted by a new drainage works. 1975, c. 79, s. 19.

Continuing
drainage
works
beyond
limits
of
municipality

20.—(1) Where it is considered necessary to continue a drainage works beyond the limits of the initiating municipality, the engineer employed by the council of such municipality may continue the drainage works on or along or across any road allowance or other boundary between any two or more municipalities, and from any such road allowance

or other boundary into or through any municipality until he reaches a sufficient outlet.

(2) A drainage works shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage works or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. 1975, c. 79, s. 20.

Where drainage works not deemed outside initiating municipality

ASSESSMENTS

21. The engineer in his report shall assess for benefit, outlet liability and injuring liability, and shall insert in an assessment schedule, in separate columns, the sums assessed for each opposite each parcel of land and road liable therefor. 1975, c. 79, s. 21.

Engineer to distinguish assessments

22. Lands, roads, buildings, utilities or other structures that are increased in value or are more easily maintained as a result of the construction, improvement, maintenance or repair of a drainage works may be assessed for benefit. 1975, c. 79, s. 22.

Assessment for benefit

23.—(1) Lands and roads that use a drainage works as an outlet, or for which, when the drainage works is constructed or improved, an improved outlet is provided either directly or indirectly through the medium of any other drainage works or of a swale, ravine, creek or watercourse, may be assessed for outlet liability.

Outlet liability, lands assessed for

(2) If, from any land or road, water is artificially caused by any means to flow upon and injure any other land or road, the land or road from which the water is caused to flow may be assessed for injuring liability with respect to a drainage works to relieve the injury so caused to such other land or road.

Injuring liability, lands assessed for

(3) The assessment for outlet liability and injuring liability provided for in subsections (1) and (2) shall be based upon the volume and rate of flow of the water artificially caused to flow upon the injured land or road or into the drainage works from the lands and roads liable for such assessments.

Basis of assessment

(4) The owners of the lands and roads made liable to assessment only under subsection (1) or (2) shall neither count for nor against the petition required by section 4 unless within the area therein described. 1975, c. 79, s. 23.

Certain owners not to count for or against petition

24. The engineer may assess for special benefit any lands for which special benefits have been provided by the drainage works. 1975, c. 79, s. 24.

Assessment for special benefit

Engineer
may
assess a
block, etc.

25.—(1) The council of the local municipality may direct the engineer to assess as a block, a built-up area designated by the council, and the sum assessed therefor may be levied against all the rateable properties in the designated area *pro rata* on the basis of the assessed value of the land and buildings.

Assessment
to be
charged
against
public
roads

(2) Where the engineer makes a block assessment under subsection (1), he shall designate the proportion of the assessment to be charged against the public roads in the designated area. 1975, c. 79, s. 25.

Increased
cost,
how borne

26. In addition to all other sums lawfully assessed against the property of a public utility or road authority under this Act, and notwithstanding that the public utility or road authority is not otherwise assessable under this Act, the public utility or road authority shall be assessed for and shall pay all the increase of cost of such drainage works caused by the existence of the works of the public utility or road authority. 1975, c. 79, s. 26.

Assessment
where
drainage
works
continued
beyond
limits of
municipality

27. Where a drainage works is continued into or through a municipality other than the initiating municipality under section 20, the engineer may assess, regardless of municipal boundaries, all lands and roads that, in his opinion, should be assessed for benefit, outlet liability or injuring liability, with such proportion of the cost of the drainage works as appears just, and in his report thereon he shall estimate separately the cost of the drainage works within each municipality and upon the road allowances or other boundaries. 1975, c. 79, s. 27.

Assessing
lands
in
neighbouring
municipality

28. Where any lands or roads in or under the jurisdiction of a local municipality, other than the local municipalities into or through which the drainage works passes, are, in the opinion of the engineer of the initiating or other municipality doing the work or part thereof, benefitted by the drainage works or provided with an improved outlet or relieved from injuring liability, he may assess the cost of the construction, improvement, maintenance or repair of the drainage works in the same manner as is provided in section 27. 1975, c. 79, s. 28.

ALLOWANCES AND COMPENSATION

Allowances
for right
of way, etc.

29. The engineer in his report shall estimate and allow in money to the owner of any land that it is necessary to use,

(a) for the construction or improvement of a drainage works;

- (b) for the disposal of material removed from drainage works;
- (c) as a site for a pumping station to be used in connection with a drainage works; or
- (d) as a means of access to any such pumping station, if, in the opinion of the engineer, such right of way is sufficient for the purposes of the drainage works,

the value of any such land or the damages, if any, thereto, and shall include such sums in his estimates of the cost of the construction, improvement, repair or maintenance of the drainage works. 1975, c. 79, s. 29; 1980, c. 1, s. 3.

30. The engineer shall determine the amount to be paid to persons entitled thereto for damage, if any, to ornamental trees, lawns, fences, lands and crops occasioned by the disposal of material removed from a drainage works and shall include such sums in his estimates of the cost of the construction, improvement, repair or maintenance of the drainage works. 1975, c. 79, s. 30.

Amount for damage to ornamental trees, etc.

31. Where an existing drain that was not constructed on requisition or petition under this Act or any predecessor of this Act is incorporated in whole or in part in a drainage works, the engineer in his report shall estimate and allow in money to the owner of such drain or part the value to the drainage works of such drain or part and shall include such sum in his estimates of the cost of the construction, improvement, repair or maintenance of the drainage works. 1980, c. 1, s. 4.

Allowance for existing drains

32. Where, in the opinion of the engineer, the cost of continuing a drainage works to a sufficient outlet or the cost of constructing or improving a drainage works with sufficient capacity to carry off the water will exceed the amount of injury likely to be caused to low-lying lands along the course of or below the termination of the drainage works, instead of continuing the works to such an outlet, or making it of such capacity, he may include in his estimate of cost a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage works, and in his report he shall determine the amount to be paid to the owners of such low-lying lands in respect of such injuries. 1975, c. 79, s. 32.

Allowance for damage due to insufficient outlet

33. Where the engineer thinks it expedient to make an allowance for loss of access to an owner instead of providing for the construction or the replacement, enlargement or other improvement of a bridge, he shall in his report provide for payment to the owner of such amount as appears just by way of allowance for loss of access and shall include such sums in his estimates of the cost of

Allowance for loss of access

the construction, improvement, repair or maintenance of the drainage works. 1980, c. 1, s. 5.

Prior
assessments
to be
taken
into
consideration

34. In fixing the sum to be assessed upon any land or road, the engineer may take into consideration any prior assessment or allowance on the same land or road for the construction, improvement, maintenance or repair of a drainage works and make such adjustment therefor as appears just, and in his report he shall state the adjustment so made. 1975, c. 79, s. 34.

Assessment
may be
shown
in money

35. The assessment upon any land or road for a drainage works shall be shown by the engineer placing in a schedule to his report sums of money opposite the land or road, and, where he considers it advisable, the fractional part of the whole cost to be borne by the land or road. 1975, c. 79, s. 35.

Assessment
of affected
land

36. The engineer, in assessing the lands and roads requiring drainage or otherwise liable for assessment under this Act, shall show in his report the approximate number of hectares affected by the drainage works in each parcel of land assessed for the drainage works. 1975, c. 79, s. 36; 1978, c. 87, s. 6 (3).

Engineer
to assess
separately

37. The engineer in his report shall list separately the lands in each municipality that are assessed for a drainage works and shall indicate the assessment for the cost of lateral drains and the assessments of lands that are not agricultural lands. 1975, c. 79, s. 37.

Variation in
assessments
for
maintenance
and repair

38. Where the engineer considers it equitable that the cost of the maintenance and repair of a drainage works be assessed upon a basis different from that upon which the cost of its construction or improvement is assessed, he shall determine and report the basis upon which the cost of maintenance and repair of the drainage works or of any part or parts thereof shall be assessed. 1975, c. 79, s. 38.

Time for
filing
report

39.—(1) The engineer shall file his report with the clerk of the initiating municipality as soon as it is completed or in any event within six months after his appointment, or within such further time as may be extended before or after the expiry of such six-month period by the council of the municipality by resolution.

Engineer
may forfeit
compensation

(2) Where, after thirty days notice by council, the engineer neglects to make his report within the time limited by or extended under this section, he shall forfeit all claims for compensation for the work done by him upon the drainage works, and the council of the local municipality may appoint another engineer.

(3) A by-law passed by the council of any local municipality for the construction of a drainage works under this Act shall not be quashed by reason only that the report of the engineer was not filed within the time limited by or extended under this section. 1975, c. 79, s. 39.

By-law
not invalid
by reason
report
not filed

40. Where the engineer finds that a drainage works is not required or is impractical, or cannot be constructed under this Act, he shall forthwith file with the clerk of the initiating municipality a report to that effect, stating his reasons therefor, the amount of his fees and other charges and by whom they shall be paid, and the clerk shall forthwith send a notice of the filing of such report, by prepaid mail, to all persons who signed the petition or requisition, as the case may be, and the matter shall not be further proceeded with unless the decision of the engineer is reversed on appeal. 1975, c. 79, s. 40.

Engineer's
finding,
drainage
works
not
required,
etc.

41.—(1) Upon the filing of the engineer's report, the council of the initiating municipality, if it intends to proceed with the drainage works, shall, within thirty days of the filing of the report, cause the clerk of the initiating municipality to send a copy of the report and a notice by prepaid mail stating,

Notice of
drainage
works

- (a) the date of the filing of the report;
- (b) the name or other designation of the drainage works; and
- (c) the date of the council meeting at which the report will be considered,

to

- (d) the owners, in the initiating municipality, as shown by the last revised assessment roll to be the owners of lands and roads assessed for the drainage works or for which compensation or other allowances have been provided in the report;
- (e) the clerk of every other local municipality in which any land or road that is assessed for the drainage works or for which compensation or other allowances have been provided in the report is situate;
- (f) the secretary-treasurer of each conservation authority that has jurisdiction over any land affected by the report;

- (g) any railway company, public utility or road authority affected by the report, other than by way of assessment;
- (h) the Minister of Natural Resources where land under his jurisdiction may be affected by the report; and
- (i) the Director.

Clerk to
notify
persons
assessed

(2) The clerk of every other local municipality in which any land or road that is assessed for the drainage works or for which compensation or other allowances have been provided in the report is situate shall send within thirty days of the sending of the last notice under subsection (1) a copy of the report and notice by prepaid mail to the owners, as shown by the last revised assessment roll to be the owners of the lands and roads in such municipality assessed for the drainage works, or for which compensation or other allowance has been provided in the report stating,

- (a) the date of the filing of the report;
 - (b) the name or other designation of the drainage works; and
 - (c) the date of the council meeting of the initiating municipality at which the report will be considered.
- 1975, c. 79, s. 41 (1, 2).

Copy of
report not
required

(3) Notwithstanding subsections (1) and (2), where a block assessment is made, the notice to the owners of the lands so assessed need not be accompanied by a copy of the report.

1980, c. 1, s. 6.

Council
meeting for
consideration
of report

(4) The date of the council meeting at which the report will be considered shall not be less than ten days after the last notice has been mailed pursuant to subsections (1) and (2).

By-law
not to be
quashed

(5) A by-law passed by the council of any local municipality in connection with the construction of a drainage works under this Act shall not be quashed by reason only that any notices required under this section were not sent within the specified time limits. 1975, c. 79, s. 41 (3, 4).

Consideration
of report

42. The council of the initiating municipality at the meeting mentioned in section 41 shall consider the report, and, where the drainage works is requested on petition, shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing it and filing it with the clerk, and shall also give those present owning lands within the area requiring drainage who have not signed the petition an opportunity

to do so, and should any of the lands or roads owned by the municipality within the area requiring drainage as described in the petition be assessed, the council may by resolution authorize the head of the municipality to sign the petition for the municipality, and such signature counts as that of one person in favour of the petition. 1975, c. 79, s. 42.

43. If, after striking out the names of the persons withdrawing, the names remaining on the petition, including the names, if any, added as provided by section 42 do not comply with section 4, the original petitioners on their respective assessments in the report are chargeable *pro rata* with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and report and the sum with which each of such petitioners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the person liable, and shall be collected in the same manner as real property taxes. 1975, c. 79, s. 43.

Liability
of original
petitioners

44. If, at the end of such council meeting, the petition contains a sufficient number of names to comply with section 4, the council may proceed to adopt the report, and, subject to section 59, no person having signed the petition shall, after the adoption of the report, be permitted to withdraw. 1975, c. 79, s. 44.

Sufficiency
of petition

45.—(1) A report may be adopted by by-law in the Form prescribed by the regulations and, when such by-law is given two readings by council, the report shall be deemed to be adopted and the by-law shall be known as a provisional by-law.

Adoption
of report

(2) Where a report is not adopted by council, any petitioner may appeal to the Tribunal or, where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Tribunal. 1975, c. 79, s. 45.

Appeal or
referral
to Tribunal

46.—(1) The council of the initiating municipality shall, within five days after the adoption of the report, send a copy of the provisional by-law, exclusive of the engineer's report, and a notice of the time and place of the first sitting of the court of revision by prepaid mail to every other local municipality in which any land or road is assessed for the drainage works or for which allowance or compensation has been provided for in the report. 1975, c. 79, s. 46 (1).

Notice of
court of
revision to
be sent to
local muni-
cipalities and
to owners

(2) The council of the initiating municipality and of every local municipality to whom a copy of the provisional by-law is sent,

Idem

under subsection (1) shall, within thirty days after the adoption of the report, send a copy of the provisional by-law, exclusive of the engineer's report, and a notice of the time and place of the sitting of the court of revision by prepaid mail to each person or body entitled to notice under section 41 and the notice shall inform each owner that he may appeal his assessment to the court of revision by a notice given to the clerk of the initiating municipality not later than ten days prior to the first sitting of the court of revision. 1980, c. 1, s. 7.

Sittings
of court

(3) The first sitting of the court of revision shall be held on a day not earlier than twenty nor later than thirty days from the date of completing the mailing of the copies of the provisional by-law under subsection (2). 1975, c. 79, s. 46 (3).

APPEALS

Appeal
from
report
to referee

47.—(1) Any owner of land or public utility affected by a drainage works, if dissatisfied with the report of the engineer on the grounds that it does not comply with the requirements of this Act, or that the engineer has reported that the drainage works cannot be constructed under section 4, may appeal to the referee and in every case a written notice of appeal shall be served upon the council of the initiating municipality within forty days after the mailing of the notices under section 40 or subsection 46 (2), as the case may be. 1975, c. 79, s. 47 (1); 1980, c. 1, s. 8.

Notice to
court
clerk

(2) Upon receipt of a notice of appeal under subsection (1), the clerk of the municipality shall forthwith record the notice and send a copy of the notice to the clerk of the court of the referee. 1975, c. 79, s. 47 (2).

Appeal to
Tribunal

48.—(1) Any owner of land or any public utility affected by a drainage works, if dissatisfied with the report of the engineer on the grounds that,

- (a) the benefits to be derived from the drainage works are not commensurate with the estimated cost thereof;
- (b) the drainage works should be modified on grounds to be stated;
- (c) the compensation or allowances provided by the engineer are inadequate or excessive;
- (d) the engineer has reported that the drainage works is not required, or is impractical, or cannot be constructed under section 3,

may appeal to the Tribunal, and in every case a written notice of appeal shall be served within forty days after the mailing of the notice under section 40 or subsection 46 (2), as the case may be. 1975, c. 79, s. 48 (1); 1980, c. 1, s. 9.

(2) Where lands used for agricultural purposes may be affected by the drainage works, the Director may appeal to the Tribunal on any of the grounds and in the manner mentioned in subsection (1). 1975, c. 79, s. 48 (2). Appeal by
Director

49. Where the proposed drainage works is to be undertaken within a watershed in which a conservation authority has jurisdiction, the authority may appeal from the report of the engineer to the Tribunal on the ground that the drainage works will injuriously affect a scheme undertaken by the authority under the *Conservation Authorities Act*, and in every case a written notice of appeal shall be served within forty days after the mailing of the notices under subsection 46 (2). 1975, c. 79, s. 49; 1980, c. 1, s. 10. Appeal by
conservation
authority

R.S.O. 1980,
c. 85

50.—(1) The council of any local municipality to which a copy of a provisional by-law was sent under subsection 46 (1) may, within forty days after the copy of the provisional by-law was sent to the clerk, appeal to the Tribunal from the report by serving the clerk of the initiating municipality and the clerk of every other municipality assessed by the engineer with a written notice of appeal setting forth the reasons for such appeal. 1980, c. 1, s. 11. Appeal by
municipality

(2) The reasons for appeal may be the following, or any of them, Reasons for
appeal

(a) that the proposed drainage works as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;

(b) that the course of the drainage works or any part thereof should be altered;

(c) that the drainage works does not provide a sufficient outlet;

(d) that the drainage works should be carried to an outlet in the initiating municipality or elsewhere;

(e) that a petition has been received by the council of the appealing municipality, as provided by section 4, for the enlargement by the appealing municipality of any part of a drainage works lying within its limits, and thence to an outlet, and that the council

is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;

(f) the work is unnecessary; or

(g) that the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. 1975, c. 79, s. 50 (2).

**Powers of
Tribunal**

51.—(1) On any appeal or reference to the Tribunal under this Act, the Tribunal shall hear and determine the matter and, where not so provided, may make such order and direct such things to be done as are authorized by this Act or as it considers proper to carry out the purposes of this Act. 1975, c. 79, s. 51 (1); 1980, c. 1, s. 12.

Parties

(2) The parties to an appeal or reference to the Tribunal under this Act shall be the person making the appeal or reference and such other persons as the Tribunal may specify. 1975, c. 79, s. 51 (2).

Appeals

52.—(1) Any owner of land assessed for the drainage works who complains that his or any other land or road has been assessed too high or too low or that any land or road that should have been assessed has not been assessed, or that due consideration has not been given as to type of use of land, may personally, or by his agent, appeal to the court of revision by giving notice in writing to the clerk of the initiating municipality setting out the grounds of his appeal, and the appeal shall be heard by the court of revision.

**Notices of
appeal**

(2) Every notice of appeal shall be given at least ten days before the first sitting of the court, but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as appear just. 1975, c. 79, s. 52.

**Adjournment
of court
or Tribunal**

53. When the ground of appeal is that lands or roads are assessed too high and the evidence adduced satisfies the court of revision or Tribunal that the assessments on such lands or roads should be reduced and there is no evidence to indicate that the amount of such reduction should be levied against lands or roads whose owners are parties to appeals then pending before the court of revision or Tribunal, the court or Tribunal shall adjourn the hearing of the appeal

for a time sufficient to enable the clerk to notify by prepaid mail such persons as the appellant may specify who are shown by the last revised assessment roll to be owners of land affected of the date to which the hearing is adjourned, and the clerk shall so notify all such persons, and at such adjourned hearing the court or Tribunal shall dispose of the matter of appeal and, where appropriate, redistribute the assessments in such manner as appears just. 1975, c. 79, s. 53.

54.—(1) Any party to an appeal before the court of revision may appeal to the Tribunal by giving notice addressed to the clerk of the Tribunal, given to the clerk of the initiating municipality, from the decision of the court of revision or from its omission, neglect or refusal to hear or decide an appeal within twenty-one days of the pronouncement of the decision of the court of revision or of any matter evidencing such omission, neglect or refusal. Appeal to Tribunal

(2) The clerk of the Tribunal shall give ten days notice to an appellant of the time and place of the hearing of the appeal by the Tribunal. Notice

(3) Every appeal shall be heard by the Tribunal by way of a trial *de novo* and shall be disposed of by the Tribunal in such manner as it considers proper, and its decision is final. 1975, c. 79, s. 54. Procedure

55. In any appeal to the court of revision or to the Tribunal in which the engineer is called upon to give evidence as to how an assessment was determined, he shall give his evidence before the appellant presents his case. 1975, c. 79, s. 55. Evidence by engineer

56. Any change in an assessment made by the court of revision or by the Tribunal shall be given effect to by the clerk of the local municipality altering the assessments and other parts of the schedule to comply therewith and sending notice thereof to the owners affected, and the provisional by-law shall, before the passing thereof, be amended to carry out any changes so made by the court of revision or by the Tribunal. 1975, c. 79, s. 56. Clerk to alter assessments

57. The council of the initiating municipality, at any time before passing the by-law, if it appears that there are or may be errors in the report of the engineer or that for any other reason the report should be reconsidered, may refer the report back to him for reconsideration, and the engineer shall thereupon reconsider his report and shall further report to the council, which report has the same effect and shall be Referral back to engineer

dealt with in the same manner and the proceedings thereon shall be the same as upon the original report. 1975, c. 79, s. 57.

By-law
may be
passed

58.—(1) Where the council of an initiating municipality has adopted a report for the construction of a drainage works after the time for appealing has expired and there are no appeals or after all appeals have been decided, the council may pass a provisional by-law thereby authorizing the construction of the drainage works, and work may be commenced ten days after the by-law is passed if no notice of intention to make application to quash the by-law has been filed with the clerk of the council.

Quashing
of by-law

(2) If no notice of intention to make application to quash a by-law is filed with the clerk of the council within ten days after the passing of the by-law or, where a notice of intention has been given, if an application to quash is not made to the referee within three months after the passing of the by-law, the by-law, or so much thereof as is not the subject of or is not quashed upon any such application, is valid and binding according to its terms, so far as it prescribes or directs anything within the proper competence of the council.

Repeal of
by-law

(3) A by-law may be repealed at any time before the work is commenced and before any assessment has been levied against the land assessed, and in such case the council of the initiating municipality shall pay all expenses in connection therewith out of the general funds of the municipality.

Where
error in
report

(4) If, at any time after the by-law is passed and before any assessments are levied, a gross error in the report is found, the council of the initiating municipality may on notice to all persons assessed apply to the Tribunal to correct the error. 1975, c. 79, s. 58 (1-4).

Appeal to
Tribunal

(5) Where the council does not proceed with reasonable dispatch with the construction of the work after passage of the by-law, a requisitioner or a petitioner may appeal to the Tribunal or, where lands used for agricultural purposes are included in the area to be drained, the Minister may refer the matter to the Tribunal, and the Tribunal may direct the council to take such action as the council is authorized to take under this Act and as the Tribunal considers proper. 1975, c. 79, s. 58 (5); 1980, c. 1, s. 13.

Meeting
to consider
contract
price

59.—(1) Where the contract price exceeds 133 per cent of the engineer's estimate of the contract price, the council of the initiating municipality shall call a meeting in the

manner prescribed by section 41, and sections 42 and 43 apply with necessary modifications.

(2) If at the close of the meeting the petition contains a sufficient number of names to comply with section 4, the council may proceed with the construction of the drainage works. 1975, c. 79, s. 59. Council may proceed with construction

60. The council of each local municipality to which a copy of the report is required to be sent under subsection 41 (1) shall raise and pay over to the treasurer of the initiating municipality its proportion of the cost of the construction of the drainage works within sixty days after the drainage works has been certified complete by the engineer or drainage superintendent. 1975, c. 79, s. 60; 1980, c. 1, s. 14. Municipalities required to raise cost

61.—(1) The council of each local municipality that is required to raise the whole or any part of the cost of the drainage works shall by by-law impose upon the land assessed for the drainage works the assessment with which it is chargeable, and the amount so imposed is payable in such instalments as the council may prescribe. 1980, c. 1, s. 15. Imposition of special assessment

(2) The council of any local municipality may provide that persons whose lands are assessed may commute for a payment in cash the assessments imposed thereon and may prescribe the terms and conditions thereof. Commutation of special assessment

(3) Where the assessment against any parcel of land is \$50 or less, the council of the local municipality may provide that the assessment shall be paid out of the general funds of the municipality or that the assessment shall be paid in the first year in which the assessment is imposed upon the land assessed. Assessments of \$50 or less

(4) The assessments and rates imposed under this Act shall be deemed to be taxes, and the provisions of the *Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default of payment thereof, apply. Application of R.S.O. 1980, c. 502

(5) Notwithstanding the provisions of any general or special Act, land exempt from taxation is for all purposes, except petitioning for or against undertaking a drainage works, subject to the provisions of this Act and shall be assessed, and the assessments so imposed that fall due while Lands exempt from taxation to be specially assessed

such land remains exempt from taxation shall be paid by the municipality that imposed the assessments, provided that such assessments imposed upon land on which a church or place of worship is erected and that is used in connection therewith, land of a university, college or seminary of learning, whether vested in a trustee or otherwise, and land of a board of an elementary or secondary school as defined in the *Education Act* and land owned by a county or a regional municipality, shall be paid by the owners of the land. 1975, c. 79, s. 61 (2-5).

R.S.O. 1980,
c. 129

Amendment
of by-law

62.—(1) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage works that has been acted upon by the completion of the drainage works in whole or in part shall, where more than sufficient funds or where insufficient funds have been provided for the completion of or proper contribution towards the drainage works or for the redemption of the debentures authorized to be issued thereunder as they become payable, be amended, and, if lands and roads in any other municipality are assessed for the drainage works, the surplus or deficiency of money shall be divided *pro rata* among the contributing municipalities, and every such surplus or deficiency shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the drainage works.

When lands
and roads
in another
municipality
assessable

(2) Where a by-law provides insufficient funds and lands and roads in another municipality are assessed for the drainage works, the council of the initiating municipality shall appoint an engineer to make an examination of the drainage works and report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall notify the heads of the other local municipalities as in the case of the original report, and the council of any municipality so notified has a right of appeal to the Tribunal in the manner provided by section 50 on the grounds of the improper expending or unlawful or other application of the drainage money already raised and is subject to the same duty, as to raising and paying over its share of the money to be raised, as in the case of the original by-law.

Respon-
sibility
of owner
for
payment

(3) Where any allowance or compensation has been determined for an owner under sections 29 to 33, the council may, where the amount so determined is less than the total amount owing from that owner, deduct from that total the amount so determined and the owner shall be responsible for paying the balance in the manner prescribed by the by-law.

(4) Where any allowance or compensation mentioned in subsection (3) exceeds the total amount owing by the owner, the municipality shall pay the balance to him. 1975, c. 79, s. 62. Payment of balance

CONSTRUCTION

63.—(1) The contractor and his assistants when engaged in the construction, maintenance, improvement or repair of a drainage works may, with their equipment, enter upon whatever lands are necessary to complete the work within the working space designated in the engineer's report. Powers of contractor

(2) Every person who wilfully interferes with or obstructs the contractor or any of his assistants in the exercise of the powers conferred by subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1975, c. 79, s. 63. Penalty for obstruction

64. Any owner of land dissatisfied with the quality of the construction of a drainage works constructed under this Act may, at any time during construction or up to one year from the date of completion of the drainage works as certified by the engineer or drainage superintendent of the drainage works, appeal to the Tribunal on grounds to be stated. 1975, c. 79, s. 64. Appeal by owner of land

SPECIAL PROVISIONS

65.—(1) Subject to subsection (6), where a parcel of land has been assessed by an engineer and, after the final revision of the assessment, the parcel is divided by the change in ownership of any part, the clerk of the local municipality in which the parcel is situate shall instruct an engineer in writing to apportion the assessment charged against the parcel among the parts into which it is divided. Subsequent subdivision of land

(2) The clerk of the local municipality shall forthwith send a copy of the instructions by prepaid mail to the owners of the parts into which the parcel is divided. Notice to affected owners

(3) The engineer in making the apportionment shall have regard to the part of the parcel affected by the drainage works, and shall make the apportionment in writing and file it with the clerk of the local municipality who shall attach it to the original assessment and shall send, by prepaid mail, a copy thereof to each of such owners, and, subject to subsection (5), the apportionment is binding upon the lands assessed. Apportionment of assessment

Costs

(4) The costs, including the fees of the engineer, shall be borne and paid by the parties in the manner fixed or apportioned by the engineer or, on appeal, by the Tribunal. 1975, c. 79, s. 65 (1-4).

Appeal of apportionment

(5) Any such owner who is dissatisfied with such apportionment and who is assessed for a sum greater than \$500 may appeal to the Tribunal within forty days after the date a copy of the apportionment is sent to him by the clerk. 1975, c. 79, s. 65 (5); 1980, c. 1, s. 16.

Agreement on share of assessment

(6) When the owners of the subdivided land mutually agree on the share of the drainage assessment that each should pay, they may enter into a written agreement and file it with the clerk of the local municipality and, if the agreement is approved by the council by resolution, no engineer need be instructed under subsection (1). 1975, c. 79, s. 65 (6).

Subsequent connections with drainage works

66.—(1) Where an owner of land that is not assessed for a drainage works subsequently connects the land with the drainage works for the purpose of drainage or where the nature or extent of the use of a drainage works by land assessed for the drainage works is subsequently altered, an engineer appointed by the initiating municipality for the purpose shall make an inspection and assess the land for a just proportion of the drainage works, regard being had to any compensation paid to the owner of such land in respect of the drainage works, but no person shall connect such land to the drainage works without the approval of the council of the municipality. 1975, c. 79, s. 66 (1); 1980, c. 1, s. 17 (1).

Notice of assessment

(2) The clerk of the initiating municipality shall forthwith send a copy of the assessment to the owners of land assessed under subsection (1), and any owner who is so assessed for a sum greater than \$500 and is dissatisfied with the assessment may appeal to the Tribunal within forty days after the date the notice is sent to him by the clerk. 1980, c. 1, s. 17 (2).

Use of amount collected

(3) The amount collected under subsection (1) shall be credited to the account of the drainage works and shall be used only for the improvement, maintenance or repair of the whole or any part of the drainage works. 1975, c. 79, s. 66 (2).

Tenant's covenant to pay taxes, when to include drainage assessments

67. Any agreement on the part of a tenant to pay the rates or taxes in respect of the demised land does not include the charges and assessments for a drainage works unless the agreement in express terms so provides, but, in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for a drainage works, in connection with which proceedings were commenced under this Act after the date of the contract or lease and which have

already been paid by the owner, shall in the absence of any agreement to the contrary, be added to the price and shall be paid by the purchaser or the lessee where he exercises his option to purchase, but the amount still unpaid on the cost of the drainage works and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. 1975, c. 79, s. 67.

68. Where compensation has been paid to the owner of any land under section 32 or 33, the clerk of the local municipality shall cause to be registered in the proper land registry office a copy of the by-law adopting the report, exclusive of the plans, profiles and specifications of the drainage works, together with a statement of the amount paid and a description of the land in respect of which the amount was paid in the Form prescribed in the regulations. 1980, c. 1, s. 18.

Registration
of by-law

69.—(1) Where a drainage works or a part thereof is to be constructed, improved, maintained or repaired upon, along, adjoining, under or across the lands, permanent way, transmission lines, power lines, wires, conduits or other permanent property of a public utility or road authority, the public utility or road authority may construct, improve, maintain or repair such drainage works or part.

Public
utility
or road
authority.
option to
construct
drainage
works

(2) Where the public utility or road authority does not exercise its powers under subsection (1) or does not complete such drainage works or part within a reasonable time and without unnecessary delay, such drainage works or part may be completed by the initiating municipality in the same manner as any other drainage works. 1975, c. 79, s. 69.

Non-exercise
by public
utility
or road
authority

70. The fees and expenditures of the engineer form part of the cost of the drainage works. 1975, c. 79, s. 70.

Fees of
engineer
part of cost

71. The account of the engineer shall be set out in such detail as the council of the local municipality that appointed him may require. 1975, c. 79, s. 71.

Account
of
engineer

72.—(1) The council of the local municipality, within forty days after the engineer's account is presented to the clerk of the municipality, may, on notice to the engineer, apply to the Tribunal, which shall review the account and make any alteration it considers just.

Review by
Tribunal

(2) Where the account as confirmed or altered by the Tribunal exceeds \$1,000, either party may, on notice to the other party, appeal the decision of the Tribunal to the referee, whose decision is final.

Appeal
to referee

Non-
requirement
of notice

(3) In any application made under subsection (1), it shall not be necessary to notify all persons assessed for the drainage works. 1975, c. 79, s. 72.

Costs to
be deemed
part of cost
of drainage
works

73.—(1) Except where otherwise provided in this Act or by a decision on an appeal, the cost of any application, reference or appeal and the cost of temporary financing for the construction, improvement, repair and maintenance of a drainage works, shall form part of the cost of the drainage works.

Cost of
council
meetings

(2) The cost of council meetings and special council meetings shall not be included in the cost of the drainage works.

Fees of
clerk

(3) The council of a local municipality may by by-law provide for payment to the clerk of the municipality of reasonable fees or other remuneration for services performed by him in carrying out the provisions of this Act, but such fees or other remuneration shall not be deemed to form part of the cost of the drainage works. 1975, c. 79, s. 73.

MAINTENANCE, REPAIR AND IMPROVEMENT

Maintenance
of drainage
works and
cost

74. Any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, relating to the construction or improvement of a drainage works by local assessment, shall be maintained and repaired by each local municipality through which it passes, to the extent that such drainage works lies within the limits of such municipality, at the expense of all the upstream lands and roads in any way assessed for the construction or improvement of the drainage works and in the proportion determined by the then current by-law pertaining thereto until, in the case of each municipality, such provision for maintenance or repair is varied or otherwise determined by an engineer in a report or on appeal therefrom. 1975, c. 79, s. 74.

Service of
copy of
by-law
on municipa-
lity liable
for con-
tribution
and appeal
from by-law

75.—(1) The council of any local municipality undertaking the repair of a drainage works without the report of an engineer, shall, before commencing the repairs,

- (a) give two readings to a by-law for undertaking such repairs, which by-law shall recite the description, extent and estimated cost of the repairs to be done and the amount to be contributed therefor by each local municipality affected by the drainage works and shall be known as a provisional by-law; and

- (b) serve upon the head or clerk of any municipality liable to contribute any portion of the cost of such repairs a copy of the provisional by-law,

and the council of any municipality so served may, within forty days thereafter, appeal from such by-law to the Tribunal on the ground that work provided for in the by-law is unnecessary or that such drainage works has never been completed through the default or neglect of the municipality whose duty it was to do the work.

(2) The council of every municipality served with a copy of the provisional by-law shall, forthwith after the time for appealing from such by-law has expired and there are no appeals or after all appeals have been decided, pass a by-law to raise the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as determined on appeal therefrom, and shall pay over such amount within a reasonable time to the treasurer of the initiating municipality. 1975, c. 79, s. 75 (1, 2).

Council
to furnish
amount
required

(3) The council of any municipality shall not be required to assess and levy the amount charged for maintenance or repair of a drainage works more than once in every five years if the total expense incurred does not exceed the sum of \$5,000, in which case sections 64 and 65 of the *Ontario Municipal Board Act* do not apply. 1975, c. 79, s. 75 (3); 1980, c. 1, s. 19.

When levy
for
maintenance
required

R.S.O. 1980,
c. 347

76.—(1) The council of any local municipality liable for contribution to a drainage works in connection with which conditions have changed or circumstances have arisen such as to justify a variation of the assessment for maintenance and repair of the drainage works may make an application to the Tribunal, of which notice has been given to the head of every other municipality affected by the drainage works, for permission to procure a report of an engineer to vary the assessment, and, in the event of such permission being given, such council may appoint an engineer for such purpose and may adopt the report but, if all the lands and roads assessed or intended to be assessed lie within the limits of one local municipality, the council of that municipality may procure and adopt such report without such permission. 1975, c. 79, s. 76 (1).

Varying
original
assessments
for
maintenance

(2) The proceedings upon such report, excepting appeals, shall be the same, as nearly as may be, as upon the report for the construction of the drainage works. 1980, c. 1, s. 20.

Proceedings
on report of
engineer

(3) Any council served with a copy of such report may, within forty days of such service, appeal to the Tribunal

Appeal from
report of
engineer

from the finding of the engineer as to the portion of the cost of the drainage works for which the municipality is liable.

Appeal from
assessment

(4) Any owner of land assessed for maintenance or repair may appeal from the assessment in the report on the grounds and in the manner provided by section 52 in the case of the construction of the drainage works.

Basis of
future
assessments

(5) An assessment determined under this section shall thereafter, until it is further varied, form the basis of any assessment for maintenance or repair of the drainage works affected thereby. 1975, c. 79, s. 76 (3-5).

Deepening,
widening
or extending
without
report
of engineer

77.—(1) The council of any local municipality whose duty it is to maintain and repair a drainage works for which only lands and roads within or under the jurisdiction of the municipality are assessed may, after the completion of the drainage works, without the report of an engineer, upon a *pro rata* assessment on the lands and roads as last assessed for the construction, maintenance or repair of the drainage works, make improvements thereto by deepening, widening or extending the drainage works to an outlet, provided the cost of such deepening, widening or extending is not more than \$4,500, but the amount expended may be increased to 20 per cent of the initial cost of the drainage works upon receiving approval as set out in the requirements for a petition of those parties eligible to sign a petition under section 4.

Moving
drainage
works off
road

(2) Where any road authority desires to relocate a drainage works or part thereof that is on or adjacent to a road under its jurisdiction, upon the report of an engineer appointed by the municipality whose duty it is to maintain and repair the drainage works that the drainage works or part thereof can be moved to a specified new location without impairing the capacity or efficiency of such drainage works or adversely affecting any person or property, the council of a local municipality may authorize such relocation within the boundaries of the municipality at the expense of the road authority. 1975, c. 79, s. 77.

Written
opinion
in lieu
of report

(3) Where the relocation of a drainage works or part thereof referred to in subsection (2) is to be effected within the lands under the jurisdiction of the road authority, the engineer may prepare a written opinion instead of a report. 1980, c. 1, s. 21.

Improving,
upon
examination
and report
of engineer

78.—(1) Where, for the better use, maintenance or repair of any drainage works constructed under a by-law passed under this Act or any predecessor of this Act, or of lands or roads, it is considered expedient to change the

course of the drainage works, or to make a new outlet for the whole or any part of the drainage works, or to construct a tile drain under the bed of the whole or any part of the drainage works as ancillary thereto, or to construct, reconstruct or extend embankments, walls, dykes, dams, reservoirs, bridges, pumping stations and other protective works as ancillary to the drainage works, or to otherwise improve, extend to an outlet or alter the drainage works or to cover the whole or any part of it, or to consolidate two or more drainage works, the council of any municipality whose duty it is to maintain and repair the drainage works or any part thereof may, without the petition required in section 4 but on the report of an engineer appointed by it, undertake and complete the drainage works as set forth in such report.

(2) An engineer shall not be appointed under subsection (1) until thirty days after a notice advising of the proposed drainage works has been sent by prepaid mail to the secretary-treasurer of each conservation authority that has jurisdiction over any of the lands that would be affected.

Notice to
conservation
authority

(3) The engineer has all the powers and shall perform all the duties of an engineer appointed with respect to the construction of a drainage works under this Act. 1975, c. 79, s. 78 (1-3).

Powers
and
duties
of engineer

(4) All proceedings, including appeals, under this section shall be the same as on a report for the construction of a drainage works. 1980, c. 1, s. 22.

Proceedings

79.—(1) Upon forty-five days notice in writing served by any person affected by the condition of a drainage works, upon the head or clerk of the local municipality whose duty it is to maintain and repair the drainage works, the municipality is compellable by an order of the referee to exercise the powers and to perform the duties conferred or imposed upon it by this Act as to maintenance and repair or such of the powers and duties as to the referee appears proper, and the municipality is liable in damages to the owner whose property is so injuriously affected. 1975, c. 79, s. 79 (1); 1980, c. 1, s. 23 (1).

Power to
compel
repairs

(2) Notwithstanding subsection (1), the local municipality whose duty it is to maintain and repair drainage works shall not become liable in damages to any person affected by reason of the non-repair of the drainage works until after service by or on behalf of such person of the notice referred to in subsection (1) upon the head or clerk of the municipality, describing with reasonable certainty the alleged lack of maintenance and repair of the drainage works. 1975, c. 79, s. 79 (2); 1980, c. 1, s. 23 (2).

Municipality
liable for
damages
caused by
non-repair

No liability where drainage works blocked by ice or snow

(3) The local municipality whose duty it is to maintain and repair a drainage works is not liable in damages for any injury caused by reason of a drainage works being blocked by snow or ice and overflowing the lands of any person without negligence on the part of the municipal corporation. 1975, c. 79, s. 79 (3).

Person responsible for obstruction to remove it on notice

80.—(1) When a drainage works becomes obstructed by a dam, low bridge, fence, washing out of a private drain, or other obstruction, for which the owner or occupant of the land adjoining the drainage works is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council of the local municipality whose duty it is to maintain and repair the drainage works or by the drainage superintendent appointed by the council, remove such obstruction and, if it is not so removed within the time specified in the notice, the council or the drainage superintendent shall forthwith cause it to be removed, and the cost thereof is payable to the municipality by the owner or occupant of the land.

Collection of cost of removal

(2) If the cost of removing the obstruction is not paid to the local municipality by the owner or occupant of the land forthwith after the completion of the work, the council may pay the cost, and the clerk of the municipality shall place the amount of cost upon the collector's roll against such land and such amount shall be collected in the same manner as real property taxes. 1975, c. 79, s. 80.

Removal of minor obstructions

81. The council, by by-law or resolution, shall direct the drainage superintendent to remove from any drainage works all weeds and brushwood, fallen timber or other minor obstructions for which the owner or occupant of the lands adjacent to the drainage works may not be responsible, and the cost of such work is chargeable as part of the cost of maintenance of the drainage works. 1975, c. 79, s. 81.

Municipality may sue for cost of damage to drainage works

82.—(1) A municipality in which a drainage works or part thereof is situate may bring an action for damages against any person who destroys or injures in any way a drainage works, including any bench mark or permanent level, and any damages ordered by the referee to be paid shall be paid to the municipality and used for the construction, improvement, maintenance or repair of the drainage works.

Penalty for damage to drainage works

(2) Every person who obstructs, fills up or injures or destroys by any means a drainage works is guilty of an offence and on conviction, in addition to his liability in damages, is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1975, c. 79, s. 82.

83.—(1) Except as authorized by a by-law of the initiating municipality approved by the Ministry of the Environment, no person shall discharge or deposit or permit to be discharged or deposited into any drainage works any liquid, material or substance other than unpolluted drainage water.

Pollution
of drains
prohibited

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1975, c. 79, s. 83.

Penalty for
pollution

84.—(1) Upon the written request of three-quarters of the owners of land assessed for benefit in respect of a drainage works, who, according to the last revised assessment roll, own not less than three-quarters of the area assessed for benefit as shown in the by-law or by-laws under which the drainage works exist, asking for the abandonment of such drainage works or a part thereof, the council of the initiating municipality shall forthwith notify all owners of land assessed for the drainage works by prepaid mail, at their addresses as shown in the last revised assessment roll, of its intention to abandon such drainage works, or such part thereof as is specified in the notice, unless any owner within ten days of the mailing of such notice, gives to the clerk of the municipality written notice that he requires a report of an engineer to be made on such proposed abandonment.

Abandonment
of all or
part of
drainage
works

(2) The council of the initiating municipality may give notice as in subsection (1) of its intention to abandon a drainage works or such part thereof as is specified in the notice without any written request.

Idem

(3) If, within such period of ten days, any owner notifies the clerk, the council shall appoint an engineer to examine the drainage works and report his recommendations as to the proposed abandonment, any necessary work in connection therewith, the sale of any assets, the cost of abandonment and all other appropriate matters and shall assess all costs, including his own compensation, and damage allowances against persons liable to assessment in connection with the drainage works in such proportions as appear just.

Engineer's
report may
be required

(4) All proceedings, including appeals, with respect to a report under subsection (1) shall be the same with necessary modifications as on a report for the construction of a drainage works.

Procedures
on report

(5) If no notice is mailed to the clerk in accordance with subsection (1) or if the engineer's report, as it may be altered on appeal, recommends the abandonment of the drainage works, the council may by by-law abandon the drainage works,

Abandonment
by council

and thereafter the municipality has no further obligation with respect to the drainage works.

Disburse-
ment of
remaining
funds

(6) Any money remaining to the credit of the drainage works after it is abandoned shall be divided *pro rata* among the owners of lands and roads assessed therefor. 1975, c. 79, s. 84.

GRANTS

Provincial
grants

85. Grants may be made in respect of,

- (a) assessments made under this Act upon lands used for agricultural purposes,
- (i) for drainage works undertaken in accordance with section 4, 74 or 78 where a report of an engineer describing the current work has been adopted in accordance with this Act, and
- (ii) for maintenance, repair and minor improvements undertaken on the recommendation of the drainage superintendent within the budgeting limitations established by the Minister for that municipality;
- (b) costs incurred by municipalities in the employment of a drainage superintendent; and
- (c) the total cost of preparing a preliminary report exclusive of the cost of preparing any benefit cost statement and any environmental appraisal. 1975, c. 79, s. 85.

When
grants
not to
be made

86.—(1) Subject to subsection (2), grants shall not be made in respect of assessments made under this Act upon lands owned by Canada, Ontario or a municipality or in respect of the assessment of the cost of lateral drains.

Exception

(2) Grants may be made in respect of lands owned by Ontario and leased for agricultural purposes to a lessee with an option to purchase. 1975, c. 79, s. 86.

Payment
of grant

87.—(1) The Minister, upon receipt of a duly completed application for a grant, may pay out of such moneys as are appropriated therefor by the Legislature to the treasurer of the initiating municipality a grant of,

- (a) where the drainage works is in a municipality within a county or, subject to clause (b), a regional municipality, $33\frac{1}{3}$ per cent of the assessments eligible for a grant under section 85; or
- (b) where the drainage works is in a municipality or a regional or district municipality within a territorial district or a provisional county, $66\frac{2}{3}$ per cent of the assessments eligible for a grant under section 85.

(2) Where a drainage works is in territory without municipal organization, an amount not exceeding 80 per cent of the assessments eligible for a grant under section 85 in respect of such drainage works may be paid by the Minister out of the moneys appropriated therefor by the Legislature.

Grants in unorganized territory

(3) Where one or more municipalities employ a drainage superintendent who has qualifications satisfactory to the Minister, the Minister may direct that 50 per cent of the costs incurred by the municipality or municipalities in the employment of such superintendent shall be paid out of the moneys appropriated therefor by the Legislature. 1975, c. 79, s. 87.

Payment of grant where drainage superintendent employed

88.—(1) Upon the practical completion of the drainage works and after the time for appealing against assessments has expired and there are no appeals or after all appeals against assessments have been decided, the council of the initiating municipality shall forward to the Director an application for a grant in such form as is provided by the Director.

Application for grant

(2) No grant shall be paid in respect of interest charges on any drainage works accruing after 120 days from the completion thereof as certified by the engineer or drainage superintendent. 1975, c. 79, s. 88.

Grant re interest charges

89.—(1) Where the drainage works is in two or more municipalities, the grant shall be distributed by the treasurer of the initiating municipality among all such municipalities in the proportion that the total of the assessments eligible for a grant in each municipality bears to the total of all assessments eligible for a grant in all of the municipalities.

Distribution

(2) The treasurer of each municipality shall apply the amount of the grant received by that municipality to reduce the assessment on each parcel of land in the municipality

Grant to be applied to reduce assessments

eligible for a grant in the proportion that each such assessment bears to the total of the assessments eligible for a grant in the municipality. 1975, c. 79, s. 89.

Reduction
of grant

90. The Minister may reduce or withhold a grant on any drainage works if in his opinion the costs other than the contract price are excessive. 1975, c. 79, s. 90.

DIRECTOR

Director

91. The Minister may appoint a Director for the purposes of this Act. 1975, c. 79, s. 91.

Persons to
advise and
assist

92. The Minister may designate such persons as he considers necessary to advise and assist municipalities and engineers in the application and administration of this Act and any such person who is not a member of the public service of Ontario shall be paid such remuneration as the Lieutenant Governor in Council may determine, together with his reasonable expenses. 1975, c. 79, s. 92.

DRAINAGE SUPERINTENDENT AND COMMISSIONERS

Appointment
of drainage
super-
intendent

93.—(1) The council of a local municipality may by by-law appoint a drainage superintendent,

- (a) to initiate and supervise the maintenance and repair of any drainage works; and
- (b) to assist in the construction or improvement of any drainage works,

and to report thereon to council and may provide for fees or other remuneration for services performed by him in carrying out the provisions of this Act, but such fees or other remuneration shall not be deemed to form part of the cost of the drainage works, and shall be paid from the general funds of the municipality.

Commis-
sioner
may be
appointed

(2) Where no drainage superintendent is appointed under subsection (1), the council may by by-law appoint one or more commissioners,

- (a) to assist the engineer in the construction or improvement of a drainage works; and
- (b) to supervise the maintenance of any drainage works,

and to report thereon to council and may provide for fees or other remuneration for services performed by him under this subsection, but such fees or other remuneration shall not be deemed to form part of the cost of the drainage

works, and shall be paid from the general funds of the municipality. 1975, c. 79, s. 93.

94.—(1) The drainage superintendent shall inspect every drainage works for which the municipality is responsible and shall report periodically to council on the condition of the drainage works in the municipality. 1980, c. 1, s. 24.

Inspection
of drainage
works

(2) Two or more municipalities may appoint the same person to be drainage superintendent within each municipality. 1975, c. 79, s. 94 (2).

Drainage
Super-
intendent
may act
for more
than one
municipality

95.—(1) For the better maintenance and repair of drainage works by embanking, pumping or other mechanical operations, the council of the municipality initiating the drainage works may by by-law,

Appointment
of commis-
sioner

(a) appoint one or more commissioners with power to,

(i) enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings and purchase and repairs of machinery, and

(ii) do all other things necessary for successfully operating the drainage works and for keeping the embankment thereof in repair as may be set forth in the by-law appointing him; and

(b) provide for defraying the annual cost of maintaining and operating the drainage works by assessment upon the lands and roads in any way liable to assessment therefor.

(2) The fees or other remuneration of a commissioner shall form part of the cost of the maintenance and repair of the drainage works.

Fees, etc.

(3) The drainage superintendent and the commissioner have the same powers as to entry on land as are given to the engineer and his assistants under subsection 12 (1). 1975, c. 79, s. 95.

Powers of
super-
intendent
and
drainage
commissioner

96. Every person who wilfully interferes with or obstructs a drainage superintendent or a commissioner in the exercise of his powers under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1980, c. 1, s. 25.

Offence

COURTS OF REVISION

Court of
revision

97.—(1) Subject to subsections (3), (4) and (5), a court of revision shall consist of three or five members appointed by the council of the initiating municipality and such members other than members of the council may be paid such remuneration and expenses as the council may by by-law provide. 1980, c. 1, s. 26 (1).

Where more
than one
municipality

(2) Every such member shall be a person eligible to be elected a member of council or shall be a member of council.

Qualification

(3) Where the lands assessed for the drainage works extend from the initiating municipality into a neighbouring municipality, the court of revision shall consist of two members appointed by the council of the initiating municipality, of whom one shall be chairman and one member appointed by the council of each of the neighbouring municipalities and the court shall hear and rule on appeals as if the entire area affected by the drainage works were in one municipality. 1975, c. 79, s. 96 (2, 3).

Quorum

(4) A majority of the members of the court of revision shall constitute and, notwithstanding the decision of any court, shall be deemed always to have constituted a quorum.

Jurisdiction
and powers
of quorum

(5) A quorum of the court of revision is sufficient and, notwithstanding the decision of any court, shall be deemed always to have been sufficient to exercise all of the jurisdiction and powers of the court of revision. 1980, c. 1, s. 26 (2).

THE ONTARIO DRAINAGE TRIBUNAL

Tribunal
continued

98.—(1) The Ontario Drainage Tribunal is continued and shall be composed of a chairman and such number of vice-chairmen and other members as shall be appointed by the Lieutenant Governor in Council.

Quorum

(2) Three members of the Tribunal designated by the chairman, one of whom shall be a barrister entitled to practice in Ontario, shall constitute a quorum and have all of the jurisdiction and powers of the Tribunal.

Remuner-
ation

(3) The members of the Tribunal who are not members of the public service of Ontario shall be paid such remuneration as the Lieutenant Governor in Council may determine, together with their reasonable expenses.

- (4) The Tribunal may,

Powers of Tribunal
- (a) hold sittings at any place in Ontario and in more than one place at the same time; and
- (b) procure reports from engineers and other professional persons in order to assist the Tribunal in reaching a decision.
- (5) Subject to the approval of the Lieutenant Governor in Council, the Tribunal may make rules governing its practice and procedure and the exercise of its powers.

Tribunal may make rules
- (6) The clerk of the initiating municipality shall be the clerk of the Tribunal.

Clerk of Tribunal
- (7) The Tribunal may from time to time employ stenographic reporters to report hearings before the Tribunal and may fix their fees and such fees shall be included in the costs of the hearing and shall be borne and paid as the Tribunal may direct.

Stenographic reporters
- (8) Where the sittings of the Tribunal are to be held in a municipality, the municipality shall provide a suitable room for holding a hearing.

Sittings of Tribunal
- (9) The Tribunal shall send by registered mail addressed to the parties to any proceedings who took part in the hearing, at their addresses last known to the Tribunal and to the Minister, a copy of its final decision and order, if any, in the proceedings.

Copy of decision
- (10) The costs of any proceedings before the Tribunal shall be paid by or apportioned between the parties in such manner as the Tribunal considers proper, and where costs are ordered to be paid, the order for payment thereof may be filed in any small claims court having jurisdiction in the municipality and is enforceable as a judgment or order of such court.

Costs. payment of
- 1975, c. 79, s. 97 (1-10).
- (11) The costs chargeable or to be awarded in any proceedings may include the costs of witnesses and of procuring their attendance, the costs of secretarial staff and such other costs as the Tribunal may direct.

What costs chargeable
- 1980, c. 1, s. 27.

99. In any application, appeal or reference to the Tribunal, the action shall be commenced by serving notice upon the council of the initiating municipality and the clerk shall forthwith record the notice and except as otherwise pro-

Appeal commenced by notice

vided send a copy of the notice to the Tribunal and to all persons assessed for the drainage works. 1975, c. 79, s. 98.

Extension
of time

100. The Tribunal, in any case that it considers proper, may extend the time otherwise limited for application, appeal or reference. 1975, c. 79, s. 99.

Decision
final

101. In any application, appeal or reference under sections 8, 10, 48, 49, 50, 54, 64, 65, 66 and 75 the decision of the Tribunal is final. 1980, c. 1, s. 28.

REFEREE

Appointment
of referee

102.—(1) The Lieutenant Governor in Council may appoint a referee for the purposes of this Act.

Acting
referee

(2) The Lieutenant Governor in Council from time to time may appoint an acting referee or referees for the purposes of this Act, and an acting referee has the same powers and duties as the referee. 1975, c. 79, s. 101 (1, 2).

Appoint-
ment of
referee

(3) The referee or an acting referee shall be a justice of the Supreme Court, a judge of a county court or a barrister of at least ten years standing at the bar of Ontario. 1976, c. 8, s. 2 (1).

Remunera-
tion

(4) Notwithstanding any other Act, the referee or an acting referee shall be paid such remuneration as the Lieutenant Governor in Council may determine, together with his reasonable expenses and expenses for secretarial services. 1975, c. 79, s. 101 (4).

Referee
not to
practise
under Act

(5) No referee or acting referee shall practise as a solicitor or barrister in any matter arising under this Act or act as legal agent or adviser in any such matter. 1976, c. 8, s. 2 (2).

Notice of
time and
place of
hearing

103.—(1) Where an application or appeal is made to the referee, he shall give an appointment to the parties to proceed therewith at such place and time and in such manner as to him may seem proper, but, unless the parties otherwise consent, a hearing shall be in the county or one of the counties in which the drainage works is or is to be situate.

Use of
court house,
etc.

(2) When an appointment is given by the referee for a hearing in any municipality where a court house is situate, he has in all respects the same authority as a judge of the Supreme Court with respect to the use of the court house or other place or apartments therein. 1975, c. 79, s. 102.

104.—(1) The clerk of the county court shall be the clerk of the court of the referee and shall take charge of and file all the exhibits, and is entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court. Clerk
of court

(2) The clerk of the court is entitled to such fees as the referee may direct for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct. Fees of
clerk

(3) In the absence of the clerk of the county court, the referee may appoint some other person to act as clerk of the court of the referee for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed while so acting has the same power as the clerk of the county court and is entitled to such fees as the referee may direct for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct. Acting
clerk

(4) The referee may from time to time employ stenographic reporters to report hearings and trials before the referee and fix their fees, and such fees shall be included in the costs and shall be borne and paid as the referee may direct. 1975, c. 79, s. 103. Stenographic
reporters

105. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the referee, be paid such fees as they are entitled to for similar services at the sittings of the Supreme Court for the trial of causes. 1975, c. 79, s. 104. Sheriffs, etc.,
to assist
referee.

106.—(1) The referee has original jurisdiction, Powers
of referee

- (a) to entertain any appeal with respect to the report of the engineer under section 47;
- (b) to determine the validity of, or to confirm, set aside or amend any petition, resolution of a council, provisional by-law or by-law relating to a drainage works under this Act or a predecessor of this Act;
- (c) to determine claims and disputes arising under this Act, including, subject to section 120, claims for damages with respect to anything done or purporting to have been done under this Act or a predecessor of this Act or consequent thereon;

- (d) to entertain applications for orders directing to be done anything required to be done under this Act;
- (e) to entertain applications for orders restraining anything proposed or purporting to be done under this Act or a predecessor of this Act; and
- (f) over any other matter or thing in relation to which application may be made to him under this Act.

Juris-
diction
of referee

(2) Subject to section 101, the referee has jurisdiction to hear appeals from any decision or order of the Tribunal and for such purpose may make any order that the Tribunal might have made and may substitute his opinion for that of the Tribunal.

Idem

(3) The referee has jurisdiction to entertain and dispose of any interlocutory application relating to any matter otherwise within his jurisdiction and his order thereon is final.

Deter-
mination
of questions
of fact
or law

(4) The referee has power to determine all questions of fact or law that it is necessary to determine for the purpose of disposing of any matter within his jurisdiction and to make such decision, order or direction as may be necessary for such purpose. 1975, c. 79, s. 105.

Referee
may make
rules

107.—(1) The referee may, with the approval of the Lieutenant Governor in Council, make rules regulating the practice and procedure to be followed in all proceedings before him under this Act and may prescribe tariffs and fees therefor.

Referee
may give
directions

(2) The referee may give directions relating to the conduct of proceedings before him and as to the persons who shall be parties to such proceedings. 1975, c. 79, s. 106.

Taxation
of costs

108. Costs shall be taxed by the referee, or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed or by a taxing officer of the Supreme Court. 1975, c. 79, s. 107.

Costs in
discretion
of referee

109. The costs of any proceedings before the referee are in the discretion of the referee. 1975, c. 79, s. 108.

Tariff
of costs

110. In the absence of other provisions, the tariff of costs in any application or proceeding under this Act shall be that of the court that would have jurisdiction to try a civil action involving a similar amount of money or type of proceeding. 1975, c. 79, s. 109.

111.—(1) Proceedings for the determination of claims and disputes and for the recovery of damages, or for an order directing or restraining the doing of any act or thing shall be instituted by serving ten clear days notice setting forth the grounds of the claim upon all persons concerned.

Proceedings
instituted
by notice

(2) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the initiating municipality is situate, and the notice shall be filed and served within two years from the time the cause of complaint arose. 1975, c. 79, s. 110.

Notice
filed
in county
court

112. All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not fewer than five days before the return day of the motion. 1975, c. 79, s. 111.

Affidavits
filed
before
motion

113. The referee may, where he considers it proper, extend the time otherwise limited for appeals or other proceedings. 1975, c. 79, s. 112.

Extension
of time
for appeal

114. When the referee proceeds partly on view or on any special knowledge or skill possessed by him, he shall put in writing a statement thereof sufficiently full to allow the Divisional Court to form a judgment of the weight that should be given thereto, and he shall state as part of his reasons the effect given by him to such statement. 1975, c. 79, s. 113.

When
referee
proceeds
on view

115. The decision of the referee, with the evidence, exhibits and statement, if any, of inspection or of technical knowledge and the reason for his decision, shall be filed in the office of the clerk of the county court in the county in which the initiating municipality is situate, and notice of the filing shall forthwith be given by the clerk, by prepaid mail, to the solicitors of the parties appearing by solicitor and to the other parties not represented by a solicitor, and also to the clerk of each municipality affected. 1975, c. 79, s. 114.

Clerk to
forward
notice of
filing

116. A copy of the decision certified by the referee or clerk of the court shall be sent or delivered,

Copy of
decision to
be sent to
Minister and
municipality

(a) to the Minister without charge; and

(b) to the clerk of every municipality interested in the drainage works in question upon receipt of the sum chargeable therefor. 1975, c. 79, s. 115.

Amendment
of by-law

117. The provisional by-law or the by-law of the initiating municipality and of any other municipality interested shall be amended so as to incorporate and carry into effect the decision of the referee or such decision as varied on appeal, as the case may be. 1975, c. 79, s. 116.

Assessing
of costs
payable

118.—(1) Except as provided by subsections (2), (3) and (4), all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied upon the lands and roads in any way assessed for the drainage works for construction, improvement, maintenance or repair in such manner as the referee or court may determine, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

Municipality
in default
to pay costs

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers or employees in the construction, improvement, maintenance or repair of the drainage works or in carrying out the provisions of this Act, the referee or court may direct that the whole or any part of such damages and costs shall be borne by the municipality and be payable out of the general funds thereof.

In cases of
settlement

(3) Where in any such proceedings by or against a municipality a settlement is made, the damages and costs payable under the terms of the settlement by any municipality shall be borne and paid as directed by the referee or court, and in making such direction, the referee or court shall have regard to the provisions of subsection (2).

Where
extension
of drainage
works
necessary

(4) Where, in the opinion of the referee or court, damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage works and it is necessary in order to prevent a continuance of such damage to improve the drainage works, the referee or court may permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement. 1975, c. 79, s. 117.

Transfer
to other
court

119. Where an action is brought or is pending before the court of revision or the Tribunal or the referee and the matter should properly be heard by one of the other tribunals, the action may be transferred to the other tribunal without invalidating the proceedings provided the action was launched within the time limits prescribed in this Act. 1975, c. 79, s. 118.

120.—(1) Where an action is brought or is pending and the court in which the action is brought or is pending or a judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that it may be more conveniently tried before and disposed of by the referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the referee on such terms as appear just, and the referee shall thereafter give directions for the continuance of the action before him.

Actions
may be
transferred
to referee

(2) This section applies only where the action is brought within the period limited by this Act for taking proceedings on notice. 1975, c. 79, s. 119.

Limitation

APPEAL TO DIVISIONAL COURT

121. Except as otherwise provided in this Act, the decision of the referee or acting referee may be appealed from to the Divisional Court in accordance with the rules of court within thirty days after the filing thereof with the county court clerk or within such further time as the referee or Divisional Court or a judge thereof may allow. 1975, c. 79, s. 120.

Appeal from
decision
of referee

GENERAL

122.—(1) Where it is considered necessary or expedient to extend a drainage works constructed under this Act from Ontario into or through lands in an adjoining province, or to extend a drainage works from an adjoining province into or through lands in Ontario, the Lieutenant Governor in Council may authorize the Minister to enter into an agreement with a designated officer of the adjoining province as to the proportion of the cost of any drainage works in the adjoining province to be borne and paid by Ontario and as to the proportion of the cost of any drainage works in Ontario to be borne and paid by the adjoining province.

Inter-
provincial
drainage
works,
from
Ontario
into
adjoining
province

(2) Where such a drainage works extends from Ontario into or through lands in an adjoining province, the Minister may order a local municipality in Ontario in which the lands affected by the drainage works are situate to provide funds to pay for the proportion of the cost of the drainage works in the adjoining province to be borne and paid by Ontario, and thereupon this Act applies with necessary modifications to such drainage works.

Apportion-
ment
of cost

Extension
of drainage
works from
adjoining
province

(3) Where a drainage works extends from an adjoining province into or through lands in Ontario, the Minister may order a local municipality into which the drainage works extends to provide for the construction of the necessary drainage works, and thereupon this Act applies with necessary modifications to such drainage works, and the contribution to the drainage works from the other province shall be paid to such local municipality on the completion of the drainage works. 1975, c. 79, s. 121.

Initiation
of drainage
works in
unorganized
territory

123. The Minister in his discretion and from time to time may prescribe the manner in which a drainage works shall be initiated and carried out in territory without municipal organization and the manner in which and the terms and conditions under which grants may be made. 1975, c. 79, s. 122.

Author-
ization of
emergency
work

124. Where the Minister declares that an emergency exists, the council of a municipality may authorize emergency work under this Act before obtaining and adopting an engineer's report. 1975, c. 79, s. 123.

Regulations

125. The Lieutenant Governor in Council may make regulations prescribing forms and providing for their use. 1975, c. 79, s. 124.

CHAPTER 127

Drugless Practitioners Act

- 1.** In this Act, Interpre-
tation
- (a) “Board” means the Board of Regents appointed under this Act;
 - (b) “drugless practitioner” means a person who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human body by manipulation, adjustment, manual or electro-therapy or by any similar method;
 - (c) “regulations” means the regulations made under this Act. R.S.O. 1970, c. 137, s. 1.

2.—(1) The Board of Regents established under *The Drugless Practitioners Act, 1925* is continued, and shall be composed of five persons appointed by the Lieutenant Governor in Council. Board of
Regents
1925, c. 49

(2) Every member of the Board shall hold office for a period of two years, but any member is eligible for re-appointment at the expiration of his term of office. Term of
office

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. Vacancies

(4) The Lieutenant Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. R.S.O. 1970, c. 137, s. 2. Officers

3.—(1) The Lieutenant Governor in Council may appoint a board of directors for one or more classifications of drugless practitioners to be composed of not fewer than three and not more than five members and to be known as “The Board of Directors of (*inserting the classification or classifications*)”. Boards of
directors

(2) The members of a board of directors shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office. Term of
office

Vacancies

(3) Every vacancy on a board of directors caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member.

Officers

(4) The Lieutenant Governor in Council may designate one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of a board of directors. R.S.O. 1970, c. 137, s. 3.

Regulations

4. The Lieutenant Governor in Council may make regulations classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes. R.S.O. 1970, c. 137, s. 4.

Board of Regents replaced

5.—(1) When a board of directors has been appointed, the Board of Regents shall cease to act with respect to the classification or classifications of drugless practitioners for which the board of directors is appointed, and the provisions of this Act with respect to the Board of Regents apply with necessary modifications to the board of directors so appointed.

Powers of boards of directors

(2) A board of directors may exercise with respect to the classification or classifications of drugless practitioners for which it is appointed all the powers that the Board of Regents would have, if the board of directors had not been appointed. R.S.O. 1970, c. 137, s. 5.

Regulations

6. The Board, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) for the examination and admission of drugless practitioners to practise in Ontario and for the registration of persons so admitted and prescribing the fees to be paid on examination and registration;
- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) for maintaining a register of persons admitted to practise and providing for the annual renewal of registration and prescribing the fee therefor;
- (d) prescribing the discipline and control of registered drugless practitioners, including the prohibition or control of advertising by or on behalf of such persons;

- (e) for classifying persons admitted to practise under this Act and for prescribing the systems of treatment that may be followed by drugless practitioners of different classes;
- (f) for designating the manner in which a person registered under this Act may describe his qualification or occupation and prohibiting the use of a title, affix or prefix that in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by Part III of the *Health Disciplines Act* that in the opinion of the Board will correctly describe the qualification or occupation of such person; R.S.O. 1980,
c. 196
- (g) for the investigation of any complaint that a registered drugless practitioner has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (h) for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or to have been ignorant or incompetent;
- (i) providing for the employment by the Board of such persons and services as may be required and for the payment of such persons and for such services;
- (j) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board;
- (k) providing for the investment of the surplus revenue of the Board;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 137, s. 6.

7. Nothing in this Act or the regulations authorizes a person, not being so expressly authorized under a general or special Act of the Legislature, to prescribe or administer drugs for use internally or externally or to use or direct or prescribe the use of anaesthetics for any purpose whatsoever or to practise surgery or midwifery. Act does not
authorize
practice of
medicine R.S.O. 1970, c. 137, s. 7.

Penalty
for un-
authorized
practice

8. Every person while not registered as a drugless practitioner under this Act or while his registration has been cancelled or is under suspension, who practises or holds himself out as practising as a drugless practitioner within the meaning of this Act, or advertises or uses or affixes any prefix to his name signifying that he is qualified to practise as a drugless practitioner within the meaning of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$100 and on conviction for a subsequent offence within a period of two years after the first conviction shall be imprisoned for a term of not more than three months. R.S.O. 1970, c. 137, s. 8.

Proof of
registration

9.—(1) In all cases where proof of registration under this Act is required, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, is sufficient evidence of all persons who are registered practitioners in lieu of the production of the original register, and any certificate upon such printed or other copy of the register purporting to be signed by a person in his capacity as secretary-treasurer of the Board under this Act is *prima facie* evidence that such person is the secretary-treasurer without any proof of his signature or of his being in fact the secretary-treasurer.

Evidence
of non-
registration

(2) The absence of the name of a person from such copy is *prima facie* evidence that such person is not registered under this Act.

Omission of
name from
copy

(3) In the case of a person whose name does not appear in such copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of such person on the register is evidence that such person is registered under this Act. R.S.O. 1970, c. 137, s. 9.

Saving

10. Nothing in this Act applies to or affects,

- (a) the practice of any profession or calling by any person practising it under any general or special Act of the Legislature;
- (b) any nurse acting in the absence of, or under the prescription or direction of, a legally qualified medical practitioner;
- (c) the furnishing of first aid or temporary assistance in cases of emergency;
- (d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. R.S.O. 1970, c. 137, s. 10.

11. Nothing in this Act or the regulations shall be taken or deemed to relieve any person from complying with the *Public Health Act* or the *Vital Statistics Act* or from any legal duty to provide for the treatment of any person by a legally qualified medical practitioner. R.S.O. 1970, c. 137, s. 11.

Compliance
with other
statutes not
affected

R.S.O. 1980,
cc. 409, 524

CHAPTER 128

Edible Oil Products Act

1. In this Act,

Interpre-
tation

- (a) “analyst” means an analyst appointed under this Act;
- (b) “chief inspector” means the chief inspector appointed under this Act;
- (c) “dairy product” means any milk product designated by name as a milk product in the *Milk Act* or designated as a milk product or fluid milk product in the regulations made thereunder; R.S.O. 1980,
c. 266
- (d) “edible oil product” means a food substance, other than a dairy product, of whatever origin, source or composition that is manufactured for human consumption wholly or in part from a fat or oil other than that of milk;
- (e) “inspector” means an inspector appointed under this Act;
- (f) “licence” means a licence under this Act;
- (g) “Minister” means the Minister of Agriculture and Food;
- (h) “regulations” means the regulations made under this Act;
- (i) “Tribunal” means the Farm Products Appeal Tribunal under the *Ministry of Agriculture and Food Act*. R.S.O. 1980,
c. 270
R.S.O. 1970, c. 138, s. 1; 1971, c. 50, s. 34 (1); 1972, c. 9, s. 1; 1978, c. 100, s. 7 (1, 2).

2. This Act applies to every edible oil product and class of edible oil product designated in the regulations. Application
of Act R.S.O. 1970, c. 138, s. 2; 1972, c. 9, s. 2.

3.—(1) No person shall manufacture or sell an edible oil product, other than oleomargarine, manufactured by any process by which fat or oil other than that of milk has been added to or mixed or blended with a dairy product in such Manufacture
and sale of
certain
edible oil
products
prohibited

manner that the resultant edible oil product is an imitation of or resembles a dairy product.

Flavouring
exempted

(2) Subsection (1) does not prevent the use of chocolate or cocoa or any flavouring preparation that contains fat or oil other than that of milk when used for the purpose of flavouring a dairy product so long only as such fat or oil does not exceed one-half of 1 per cent by weight of the dairy product. R.S.O. 1970, c. 138, s. 3.

Licence
required

4. No person shall manufacture or sell by wholesale an edible oil product to which this Act applies without a licence therefor from the chief inspector. 1971, c. 50, s. 34 (2).

Licence,
issue

5.—(1) The chief inspector shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing,

(a) he finds that,

- (i) the applicant was previously the holder of a licence and such licence was cancelled under this Act, or
- (ii) the applicant or, where the applicant is a corporation, any officer, director or servant thereof or any person who will be in any way associated with the applicant in the operations pursuant to the licence was convicted of an offence under this Act,

and in his opinion the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

(b) he is of opinion that,

- (i) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business that would be authorized by the licence will not be carried on in accordance with law, or
- (ii) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

(2) Subject to section 6, the chief inspector shall renew ^{Renewal} a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1971, c. 50, s. 34 (3), *part*.

6.—(1) The chief inspector may refuse to renew or may suspend or cancel a licence if, after a hearing, he finds that, ^{Refusal to renew, suspension or cancellation}

(a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof, has contravened or has permitted any person under his control or direction or associated with him in connection with his or its operations as a licensee to contravene any provision of this Act or the regulations or a term or condition of the licence or has been convicted of an offence under this Act and such contravention or conviction in his opinion warrants such refusal to renew, suspension or cancellation of the licence; or

(b) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

(2) Notwithstanding subsection (1), the chief inspector, by ^{Provisional suspension, etc.} notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the opinion of the chief inspector it is necessary to do so for the immediate protection of the safety or health of any person or the public and he so states in such notice giving his reasons therefor, and thereafter the chief inspector shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

(3) Subject to subsection (2), where, within the time ^{Continuation of licence pending renewal} prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal. 1971, c. 50, s. 34 (3), *part*.

7.—(1) The notice of a hearing by the chief inspector ^{Notice of hearing} under section 5 or 6 shall afford the applicant or licensee reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination
of docu-
mentary
evidence

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 34 (3), *part*.

Variation
of decision
by chief
inspector

8. Where the chief inspector has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but he shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1971, c. 50, s. 34 (3), *part*.

Appeal to
Tribunal

9.—(1) Where the chief inspector refuses to issue or renew, or suspends or cancels a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Tribunal within fifteen days after receipt of the decision of the chief inspector, appeal to the Tribunal. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Extension
of time
for appeal

(2) The Tribunal may extend the time for the giving of notice by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Disposal
of appeal

(3) Where an applicant or licensee appeals to the Tribunal under this section, the Tribunal shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and as the Tribunal considers proper, and, for such purpose, the Tribunal may substitute its opinion for that of the chief inspector. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Effect of
decision
pending
disposal
of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. 1971, c. 50, s. 34 (3), *part*.

10.—(1) The chief inspector, the appellant and such other ^{Parties} persons as the Tribunal may specify are parties to the proceedings before the Tribunal under this Act. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

(2) Members of the Tribunal assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3). ^{Members making decision not to have taken part in investigation, etc.}

(3) The oral evidence taken before the Tribunal at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3). ^{Recording of evidence}

(4) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3). ^{Findings of fact} ^{R.S.O. 1980, c. 484}

(5) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3). ^{Only members at hearing to participate in decision}

11.—(1) Any party to the hearing before the Tribunal may appeal from the decision of the Tribunal to the Divisional Court in accordance with the rules of court. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3). ^{Appeal to court}

(2) The Minister is entitled to be heard, by counsel or otherwise, on the argument of an appeal under this section. 1971, c. 50, s. 34 (3), *part*. ^{Minister entitled to be heard}

(3) The chairman of the Tribunal shall file with the Registrar of the Supreme Court the record of the proceedings before the Tribunal which, together with a transcript of the evidence before the Tribunal, if it is not part of the Tribunal's ^{Record to be filed in court}

record, shall constitute the record in the appeal. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Powers of
court on
appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Tribunal or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Tribunal for reconsideration by the Tribunal as the court considers proper, and the court may substitute its opinion for that of the chief inspector or the Tribunal. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Effect of
decision of
Tribunal
pending
disposal
of appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Tribunal, unless the Tribunal otherwise directs, the decision of the Tribunal is effective until the appeal is disposed of. 1971, c. 50, s. 34 (3), *part*; 1978, c. 100, s. 7 (3).

Sale of
edible oil
products

12. No person shall offer for sale or sell by wholesale or retail an edible oil product to which this Act applies that does not comply with this Act and the regulations. R.S.O. 1970, c. 138, s. 5.

Inspectors,
etc., appoint-
ment

13.—(1) The Lieutenant Governor in Council may appoint a chief inspector and such inspectors and analysts as are considered necessary for the administration and enforcement of this Act and the regulations. 1971, c. 50, s. 34 (4).

Obstruction
of inspector

(2) No person shall obstruct an inspector in the performance of his duties or furnish an inspector with false information. R.S.O. 1970, c. 138, s. 6 (2).

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating the edible oil products or classes of edible oil products to which this Act applies;
- (b) providing for the issue of licences to manufacturers and wholesalers of any edible oil product and prescribing the form, terms and conditions thereof and the fees to be paid therefor, and providing for the renewal, suspension and cancellation thereof;
- (c) prescribing standards for the operation and maintenance of premises and facilities in which any edible oil product is manufactured, packed or stored;

- (d) prescribing the standards of quality for and the composition of any edible oil product or class of edible oil product;
- (e) providing for the detention and confiscation of any edible oil product that does not comply with this Act and the regulations;
- (f) respecting the advertising of any edible oil product or class of edible oil product;
- (g) requiring and providing for the identification by labelling or otherwise of any edible oil product or class of edible oil product sold or offered for sale;
- (h) prescribing the powers and duties of inspectors and analysts;
- (i) prescribing the records to be kept by manufacturers and wholesalers of any edible oil product;
- (j) exempting any manufacturer, wholesaler or retailer of any edible oil product from this Act and the regulations, and prescribing terms and conditions therefor;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 138, s. 7; 1972, c. 9, s. 3.

15. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each offence. R.S.O. 1970, c. 138, s. 8.

CHAPTER 129

Education Act

INTERPRETATION

1.—(1) In this Act and the regulations, except where ^{Interpre-} otherwise provided in the Act or regulations, ^{tation}

1. “adjoining” means touching at any point; 1974, c. 109, s. 1 (1), par. 1.
2. “average daily enrolment” for a calendar year means the average daily enrolment calculated in accordance with the regulations; 1976, c. 50, s. 1 (1).
3. “board” means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board;
4. “board of education” includes a divisional board;
5. “city” includes a separated town and the portion of a city that is in one school division;
6. “combined separate school zone” means a union of two or more separate school zones;
7. “county” includes a provisional county and united counties;
8. “county combined separate school board” means a separate school board established for a county combined separate school zone;
9. “county combined separate school zone” means a union of the separate school zones whose centres are within an area designated by the regulations that includes a county or all or part of a regional municipality that is not in a territorial district; 1974, c. 109, s. 1 (1), pars. 3-9.
10. “county municipality” means a municipality, other than a city, that forms part of a county or regional

municipality that is not in the territorial districts; 1978, c. 44, s. 1.

11. “current expenditure” means an expenditure for operating purposes or a permanent improvement from funds other than those arising from the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture;
12. “current revenue” means all amounts earned by a board, together with the amounts to which it becomes entitled, other than by borrowing, that may be used to meet its expenditures;
13. “debt charge” means the amount of money necessary annually,
 - i. to pay the principal due on long-term debt not payable from a sinking fund,
 - ii. to provide a fund for the redemption of debentures payable from a sinking fund, and
 - iii. to pay the interest due on all debt referred to in subparagraphs i and ii;
14. “defined city” means,
 - i. the City of Hamilton,
 - ii. the City of London, and
 - iii. the City of Windsor;
15. “district combined separate school board” means a separate school board established for a district combined separate school zone;
16. “district combined separate school zone” means a union of the separate school zones whose centres are within an area in the territorial districts that is designated by the regulations;
17. “district municipality” means a municipality, except a city, in a territorial district;
18. “district school area” means a school section in the territorial districts that is not a school division or a school section designated under section 70;

19. "divisional board" means a divisional board of education;
20. "elementary school" means a public school, Roman Catholic separate school or Protestant separate school; 1974, c. 109, s. 1 (1), pars. 11-20.
21. "exceptional pupil" means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to need placement in a special education program by a committee, established under subparagraph iii of paragraph 5 of subsection 10 (1), of the board,
 - i. of which he is a resident pupil,
 - ii. that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or
 - iii. to which the cost of education in respect of the pupil is payable by the Minister; 1980, c. 61, s. 1 (1), *part*.
22. "guardian" means a person who has been appointed by order of a court as the legal guardian of a child in place of a parent;
23. "head office" of a board means the place at which the minute book, financial statements and records, and seal of the board are ordinarily kept;
24. "intermediate division" means the division of the organization of a school comprising the first four years of the program of studies immediately following the junior division;
25. "judge" means the judge of the county or district court of the county or district in which the head office of the board is situate;
26. "junior division" means the division of the organization of an elementary school comprising the first three years of the program of studies immediately following the primary division;
27. "locality" means a part of territory without municipal organization that is deemed to be a district municipality for the purposes of a divisional board or of a district combined separate school board;

28. "Minister" means the Minister of Education;
29. "Ministry" means the Ministry of Education;
30. "municipality" means a city, town, village, township or improvement district;
31. "occasional teacher" means a teacher employed to teach as a substitute for a permanent, probationary or temporary teacher who has died during the school year or who is absent from his regular duties for a temporary period that is less than a school year and that does not extend beyond the end of a school year;
32. "parcel of land" means a parcel of land that by the *Assessment Act* is required to be separately assessed;
33. "part-time teacher" means a teacher employed by a board on a regular basis for other than full-time duty;
34. "permanent improvement" includes,
 - i. a school site and an addition or an improvement to a school site,
 - ii. a building used for instructional purposes and any addition, alteration or improvement thereto,
 - iii. an administration office, a residence for teachers or caretakers and a storage building for equipment and supplies, and any addition, alteration or improvement thereto,
 - iv. furniture, furnishings, library books, instructional equipment and apparatus, and equipment required for maintenance of the property,
 - v. a bus or other vehicle, including watercraft, for the transportation of pupils,
 - vi. the obtaining of a water supply or an electrical power supply on the school property or the conveying of a water supply or an electrical power supply to the school from outside the school property,
 - vii. initial payments or contributions for past service pensions to a pension plan for officers and other employees of the board;

35. “permanent teacher” means a teacher employed by a board under a permanent teacher’s contract made in accordance with the regulations and includes a teacher whose contract is deemed to include the terms and conditions contained in the form of contract prescribed in the regulations for a permanent teacher; 1974, c. 109, s. 1 (1), pars. 21-34.
36. “polling list” means a polling list as defined in the *Municipal Elections Act*; 1974, c. 109, s. 1 (1), par. 35; R.S.O. 1980, c. 308 1978, c. 44, s. 25.
37. “population” means the population as determined by the latest census taken under section 14 or 15 of the *Assessment Act*; 1974, c. 109, s. 1 (1), par. 36. R.S.O. 1980, c. 31
38. “primary division” means the division of the organization of an elementary school comprising junior kindergarten, kindergarten and the first three years of the program of studies immediately following kindergarten;
39. “principal” means a teacher appointed by a board to perform in respect of a school the duties of a principal under this Act and the regulations;
40. “private school” means an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of or over compulsory school age in any of the subjects of the elementary or secondary school courses of study and that is not a school as defined in this section;
41. “probationary teacher” means a teacher employed by a board under a probationary teacher’s contract made in accordance with the regulations;
42. “provincial supervisory officer” means a supervisory officer employed by the Minister; 1974, c. 109, s. 1 (1), pars. 38-42.
43. “public school elector”, in respect of an area for which one or more members of a board are to be elected by public school electors, means a public school elector under the *Municipal Elections Act*, who is qualified to vote at the election for such members in such area; 1974, c. 109, s. 1 (1), par. 43; 1978, c. 44, s. 25.
44. “regulations” means the regulations made under this Act;

R.S.O. 1980,
c. 302

45. "reserve fund" means a reserve fund established under section 165 of the *Municipal Act*;
46. "Roman Catholic" includes a Catholic of the Greek or Ukrainian Rite in union with the See of Rome;
47. "rural separate school" means a separate school for Roman Catholics in a township or territory without municipal organization that is not part of a county or district combined separate school zone;
48. "rural separate school zone" means a separate school zone in respect of a rural separate school;
49. "school" means,
 - i. the body of public school pupils or separate school pupils or secondary school pupils that is organized as a unit for educational purposes under the jurisdiction of the appropriate board, or
 - ii. the body of pupils enrolled in any of the elementary or secondary school courses of study in an educational institution operated by the Government of Ontario,and includes the teachers and other staff members associated with such unit or institution and the lands and premises used in connection therewith;
50. "school day" means a day that is within a school year and is not a school holiday;
51. "school division" means the area in which a divisional board has jurisdiction;
52. "school section" means the area in which a public school board or board of education has jurisdiction for public school purposes;
53. "school site" means land or interest therein or premises required by a board for a school, school playground, school garden, teacher's residence, caretaker's residence, gymnasium, offices, parking areas or for any other school purpose;
54. "school year" means the period prescribed as such by, or approved as such under, the regulations;

55. “secondary school” means a school that is under the jurisdiction of a secondary school board;
56. “secondary school district” means the area in which a secondary school board or a board of education has jurisdiction for secondary school purposes;
57. “secretary” and “treasurer” includes a secretary-treasurer;
58. “senior division” means the division of the organization of a secondary school comprising the three years of the program of studies following the intermediate division;
59. “separated town” means a town separated for municipal purposes from the county in which it is situated; 1974, c. 109, s. 1 (1), pars. 44-59.
60. “separate school elector”, in respect of an area for which one or more members of a board are to be elected by separate school electors, means a separate school elector under the *Municipal Elections Act*, who is qualified to vote at the election of such members in such area; 1974, c. 109, s. 1 (1), par. 60; 1978, c. 44, s. 25. R.S.O. 1980,
c. 308
61. “separate school supporter” means a Roman Catholic ratepayer,
- i. in respect of whom notice of school support has been given in accordance with section 119 and notice of withdrawal of support has not been given under section 120, or
 - ii. who has directed education taxes to the support of separate schools by confirming or revising an enumeration notice in accordance with section 14 of the *Assessment Act* and the regulations made thereunder, R.S.O. 1980,
c. 31
- and includes the Roman Catholic spouse of such ratepayer;
62. “separate school zone” means the area in which property may be assessed to support a separate school or schools for Roman Catholics under the jurisdiction of one separate school board; 1974, c. 109, s. 1 (1), pars. 61, 62.
63. “special education program” means, in respect of an exceptional pupil, an educational program that is based on and modified by the results of continuous assessment

and evaluation and that includes a plan containing specific objectives and an outline of educational services that meets the needs of the exceptional pupil;

64. "special education services" means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program; 1980, c. 61, s. 1 (1), *part*.
65. "supervisory officer" means a person who is qualified in accordance with the regulations governing supervisory officers and who is employed,
 - i. by a board, or
 - ii. in the Ministry and designated by the Minister,to perform such supervisory and administrative duties as are required of supervisory officers by this Act and the regulations;
66. "teacher" means a person who holds a valid certificate of qualification as a teacher in an elementary or a secondary school in Ontario;
67. "temporary teacher" means a person employed to teach under the authority of a letter of permission; 1974, c. 109, s. 1 (1), pars. 63-65.
68. "trainable retarded child" or "trainable retarded pupil" means an exceptional pupil whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils; 1980, c. 61, s. 1 (2).
69. "urban municipality" means a city, town or village;
70. "urban school section" means a school section, except a school division or a district school area, that includes a municipality;
71. "urban separate school" means a separate school for Roman Catholics in an urban municipality;
72. "urban separate school zone" means a separate school zone established in an urban municipality that does not form part of a county or district combined separate school zone;

73. "vocational school" includes a special vocational school. 1974, c. 109, s. 1 (1), pars. 67-71.

(2) Where by or under this Act any authority or right is vested in, or any obligation is imposed upon, or any reimbursement may be made to, a parent or guardian of a pupil, such authority, right, obligation or reimbursement shall, where the pupil is an adult, be vested in or imposed upon or made to the pupil, as the case may be. 1974, c. 109, s. 1 (2).

Authority or obligation of parent vested in pupil of 18 years of age

(3) Where any question arises touching the validity of any proceeding with respect to the formation, alteration or dissolution of a school section or touching any by-law with respect to any of such matters, the question shall be raised, heard and determined upon a summary application to the judge, and no proceeding or by-law with respect to the formation, alteration or dissolution of a school section is invalid or shall be set aside because of failure to comply with the provisions of any Act applicable to the proceeding or by-law, unless, in the opinion of the judge before whom the proceeding or by-law is called in question, the proceeding or by-law, if allowed to stand, would cause substantial injustice to be done to any person affected thereby. 1974, c. 109, s. 1 (4).

Questions re proceedings as to formation of school section

(4) This Act does not adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the predecessors of this Act as they existed immediately prior to the 1st day of January, 1975. 1974, c. 109, s. 1 (6).

Effect on separate schools

PART I

MINISTRY OF EDUCATION

2.—(1) The ministry of the public service known as the Ministry of Education is continued.

Ministry continued

(2) The Minister shall preside over and have charge of the Ministry.

Minister to have charge

(3) The Minister is responsible for the administration of this Act and the regulations and of such other Acts and the regulations thereunder as may be assigned to him by the Lieutenant Governor in Council. 1974, c. 109, s. 2.

Administration

3. The Minister shall, after the close of each fiscal year, submit to the Lieutenant Governor in Council a report upon the affairs of the Ministry for the immediately preceding fiscal year and shall then lay the report before

Annual report

the Assembly if it is in session or, if not, at the next ensuing session. 1974, c. 109, s. 3.

Additions to enrolment in special cases

4. The Minister may, in respect of a school, require to be included in the enrolment on any date the number of pupils who were absent from school because of any condition considered by the Minister to constitute a special circumstance or an emergency. 1974, c. 109, s. 4.

Closing of school or class

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may order the closing of a school or any class thereof for a specified period.

Pupils deemed in attendance

(2) Where a school or class is closed for a specified period under subsection (1), the pupils in such school or class shall for all purposes, including the calculation of general legislative grants and fees, be deemed to be in attendance. 1974, c. 109, s. 5.

Guarantee of debentures

6.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures issued by a board in Ontario for any school purpose for which the board is authorized to issue debentures.

Form of guarantee

(2) The form of the guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council, and every guarantee given or purporting to be given under this section is binding upon the Province and is not open to question upon any ground whatsoever.

Validity of guaranteed debentures

(3) Any debenture issued by a board, payment of which is guaranteed by the Province under this section, is valid and binding upon the board by which it is issued and the rate-payers thereof, according to its terms, and the validity of any debenture so guaranteed is not open to question upon any ground whatsoever. 1974, c. 109, s. 6.

Fixing rate of interest on debentures, etc., held by Treasurer

7. Notwithstanding anything in any Act fixing the rate of interest to be paid or credited to any board by the Treasurer of Ontario upon school securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario either as an investment by the Province or for investment on behalf of a board, the rate at which interest shall be allowed to, paid by or credited to a board upon any such securities, sinking funds or debentures heretofore or hereafter deposited with or purchased by the Treasurer of Ontario shall be the current rate of interest as fixed from time to time by the Lieutenant Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a provincial loan and then outstanding. 1974, c. 109, s. 7.

8.—(1) The Minister may,Powers of
Minister:

- (a) name the diplomas and certificates that are to be granted to pupils and prescribe their form and the conditions under which they are to be granted; diplomas and
certificates
- (b) prescribe the courses of study that shall be taught and the courses of study that may be taught in the primary, junior, intermediate and senior divisions; courses of
study
- (c) in respect of schools under the jurisdiction of a board, courses and
areas of study
 - (i) issue curriculum guidelines and require that courses of study be developed therefrom and establish procedures for the approval of courses of study that are not developed from such curriculum guidelines,
 - (ii) prescribe areas of study and require that courses of study be grouped thereunder and establish procedures for the approval of alternative areas of study under which courses of study shall be grouped, and
 - (iii) approve or permit boards to approve,
 - a. courses of study that are not developed from such curriculum guidelines, and
 - b. alternative areas of study under which courses of study shall be grouped,

and authorize such courses of study and areas of study to be used in lieu of or in addition to any prescribed course of study or area of study;
- (d) establish procedures by which and the conditions under which books and other learning materials are selected and approved by the Minister; 1974, c. 109, s. 8 (1) (a-d). procedures
- (e) purchase and distribute textbooks and other learning materials for use in schools; 1976, c. 50, s. 2 (1). textbooks
and other
learning
materials
- (f) select and approve for use in schools textbooks, library books, reference books and other learning materials; 1974, c. 109, s. 8 (1) (e). textbooks,
reference
books, etc.

publication
of book lists

- (g) cause to be published from time to time lists of textbooks, learning materials, reference books and library books, selected and approved by the Minister for use in elementary and secondary schools; 1974, c. 109, s. 8 (1) (f); 1976, c. 50, s. 2 (2).

daily
register

- (h) prescribe the form of the register of attendance and the manner of its use in recording the daily attendance of pupils of schools, or approve the use of an alternate method of recording such daily attendance, and prescribe the form in which enrolment and attendance data shall be submitted to the Minister;

letter of
standing

- (i) grant a letter of standing to a person who is a qualified teacher in a jurisdiction outside Ontario and who holds academic and professional qualifications equivalent to those required in Ontario at the time of the issuing of the letter of standing;

letter of
permission

- (j) grant a letter of permission to a board authorizing the board to employ as a teacher a person not qualified as such if the Minister is satisfied that no teacher is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister may specify therein;

letter of
approval

- (k) grant a temporary letter of approval to a board authorizing the board to appoint or assign, for a period not exceeding one year, a teacher to teach a subject or hold a position where the teacher does not hold the certificate required for teaching the subject;

withdraw
letter

- (l) withdraw any letter of permission or temporary letter of approval granted under this Act;

suspend or
cancel

- (m) suspend or cancel and reinstate any interim, temporary, permanent, special or other certificate of qualification or letter of standing;

accept
equivalent
qualification

- (n) accept in lieu of any requirement prescribed for a teacher, head of a department, principal, director, supervisor or supervisory officer, or for a candidate for a certificate or for admission to a school, such experience, academic scholarship or professional training as he considers equivalent thereto, and may require such evidence thereof as he considers necessary;

- (o) require employees of school boards to submit to medical examinations; medical examinations
- (p) provide or approve and review courses for teachers, principals and supervisory officers; courses
- (q) provide for the development, distribution and supervision by the Ministry of correspondence courses; correspondence courses
1974, c. 109, s. 8 (1) (g-p).
- (r) provide for, and prescribe the conditions of, the granting of scholarships, bursaries and awards to pupils; scholarships, bursaries
1974, c. 109, s. 8 (1) (q); 1975, c. 77, s. 1.
- (s) in respect of teachers' colleges, teachers' colleges
 - (i) define courses of study and subjects to be taught,
 - (ii) recommend reference books and library books,
 - (iii) approve textbooks,
 - (iv) determine the number of terms and the dates upon which each term begins and ends, and
 - (v) grant Bachelor of Education degrees;
- (t) in respect of schools for the deaf and the blind, determine the number of terms and the dates upon which each term begins and ends; provincial schools
- (u) apportion and pay all sums received for educational purposes from the Government of Canada or any source other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner he considers proper; apportion federal grants
- (v) make payments out of funds appropriated therefor by the Legislature to a board, an individual, a voluntary association or a corporation without share capital having objects of a charitable or educational nature, educational advancement programs, activities and projects and accountable advances
 - (i) to assist or advance programs, activities or projects for students that involve a cultural and educational exchange with other provinces and countries, provincial or interprovincial

travel, school twinning and related assistance, leadership training, or summer employment, and

- (ii) to foster and promote educational advancement by means of programs, activities or projects that are provided for visiting educational officials, designed to further the professional development of teachers and supervisory officers including exchange of such personnel, or considered by the Minister to be valuable in advancing a particular area of study,

and, subject to the terms and conditions that are approved for such purpose by the Lieutenant Governor in Council, make an accountable advance to the recipient of a payment under this clause or to an individual, not being a member of the public service, who conducts or assists in conducting or participates in any such program, activity or project. 1974, c. 109, s. 8 (1) (r-u).

agreements
concerning
learning
materials

- (w) enter into an agreement with any board, person or organization in respect of the development and production of learning materials, and pay all or part of the costs in connection therewith;

educational
research
and grants
for promotion
of advance-
ment of
education

- (x) initiate educational research and make grants to a board, an individual, a voluntary association or a corporation for educational research programs, activities or projects to promote the advancement of education;

discretion to
establish
French-
language
programs for
English-
speaking
pupils

- (y) permit a board to establish for English-speaking pupils programs involving varying degrees of the use of the French language in instruction, provided that programs in which English is the language of instruction are made available to pupils whose parents desire such programs for their children. 1976, c. 50, s. 2 (3).

Identification
programs
and special
education
programs
and services

- (2) The Minister shall ensure that all exceptional children in Ontario have available to them, in accordance with this Act and the regulations, appropriate special education programs and special education services without payment of fees by parents or guardians resident in Ontario, and shall provide for the parents or guardians to appeal the appropriateness of the special education placement, and for these purposes the Minister shall,

- (a) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils, and shall prescribe standards in accordance with which such procedures be implemented; and
- (b) in respect of special education programs and services, define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause. 1980, c. 61, s. 2.

(3) An act of the Minister under this section is not a regulation within the meaning of the *Regulations Act*. 1974, c. 109, s. 8 (2). Application
R.S.O. 1980,
c. 446

9. The Minister may,

Powers of
Minister:

- (a) appoint such advisory or consultative bodies as may be considered necessary by the Minister from time to time; advisory
body
- (b) appoint as a commission one or more persons, as he considers expedient, to inquire into and report upon any school matter, and such commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act; commission
of inquiry

R.S.O. 1980,
c. 411
- (c) submit a case on any question arising under this Act to the Divisional Court for opinion and decision. 1974, c. 109, s. 9, *revised*. secure legal
opinion

10.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations in respect of schools or classes established under this Act, or any predecessor of this Act, and with respect to all other schools supported in whole or in part by public money, Regulations

1. for the establishment, organization, administration and government thereof; general
2. governing the admission of pupils; admit pupils
3. prescribing the manner in which records in respect of pupils of elementary and secondary schools shall be established and maintained, including the forms to be used therefor and the type of information that shall be kept and recorded, and providing for the retention, transfer and disposal of such records; pupil
records

disposition of
present pupil
records

4. providing for the disposition of records established prior to the 1st day of September, 1972, in respect of pupils;

special
education
programs

5. governing the provision, establishment, organization and administration of,

- i. special education programs,

- ii. special education services, and

- iii. committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 7 of section 149, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established;

identification
and
placement
appeals

6. governing procedures with respect to parents or guardians for appeals in respect of identification and placement of exceptional pupils in special education programs;

evening
classes

7. defining and governing evening classes;

purchase
books

8. requiring boards to purchase books for the use of pupils;

accommo-
dation and
equipment

9. prescribing the accommodation and equipment of buildings and the arrangement of premises;

recreation
programs

10. defining and governing programs of recreation, camping, physical education and adult education;

certificates
and letters of
standing

11. governing the granting, suspending and cancelling of permanent, temporary, interim, special and other certificates of qualification, and letters of standing;

letter of
permission

12. governing the granting to a board of a letter of permission and a temporary letter of approval and providing for the withdrawal of such letters;

teacher's
contract

13. prescribing the form of contract that shall be used for every contract entered into between a board and a permanent teacher or a probationary teacher for the services of the teacher, and prescribing in the form of contract the terms and conditions of the contract;

14. governing the establishment and operation of public and secondary schools on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes, and providing for the payment of moneys to assist in the cost of establishment and maintenance of such schools; schools on Crown lands
15. governing the payment of the cost of education at elementary and secondary schools of pupils who, pupils on Crown lands, wards of children's aid society and in approved homes, etc.
 - i. reside in the territorial districts, or on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on other lands that are exempt from taxation for school purposes,
 - ii. are wards of or in the care of a children's aid society, or
 - iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act;
16. providing for assistance in the payment of board, lodging and transportation costs of elementary and secondary school pupils; board, lodging and transportation of pupils
17. prescribing the fees to be paid to presiding officers and examiners in connection with examinations and by whom and in what manner such fees and other expenses in connection with such examinations shall be borne and paid; fees of examiners
18. governing the provision of religious exercises and religious education in public and secondary schools and providing for the exemption of pupils from participating in such exercises and education and of a teacher from teaching, and a public school board or a secondary school board from providing, religious education in any school or class; religious exercises and education
19. prescribing the language or languages in which any subject or subjects shall be taught in any year of the primary, junior, intermediate or senior division; language of instruction
20. providing for and governing the exchange of teachers between Ontario and other parts of Canada and between Ontario and other jurisdictions; exchange teachers

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| school libraries | 21. governing school libraries; |
| textbooks | 22. listing the textbooks that are selected and approved by the Minister for use in schools; |
| practice teaching | 23. respecting observation and practice teaching by student teachers; |
| powers and duties of teachers, etc. | 24. prescribing the powers, duties and qualifications, and governing the appointment of, teachers, supervisors, directors, supervisory officers, heads of departments, principals, superintendents, bursars, matrons, school attendance counsellors and other officials; |
| pupils | 25. prescribing the duties of pupils; |
| schools for trainable retarded children | 26. governing the operation of schools for trainable retarded children; |
| qualification to teach | 27. prescribing the qualifications and experience required for the purpose of qualifying a person to teach; |
| forms | 28. prescribing forms and providing for their use; |
| transportation | 29. governing the transportation of pupils; |
| practice and procedure | 30. regulating the practice and procedure to be followed at any hearing provided for by or under this Act; |
| duties of supervisory officers | 31. governing the assignment by a board of duties to directors of education and other supervisory officers and prescribing the procedures in respect thereof, and defining any word or expression used in such regulation; |
| suspension or dismissal of supervisory officers | 32. prescribing the practices and procedures to be followed by a board in the case of suspension or dismissal of a director of education or other supervisory officer.
1974, c. 109, s. 10 (1); 1980, c. 61, s. 3. |
- Student-Aid loan contracts (2) Every contract executed by a person under twenty-one years of age that provides for the repayment of a loan made to such person out of the Provincial Student-Aid Loan Fund is binding upon such person and enforceable against him in the same manner and to the same extent as if he were over twenty-one years of age at the time he executed the contract. 1974, c. 109, s. 10 (2).
- Regulations, grants (3) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for educational purposes;
- (b) prescribing the conditions governing the payment of legislative grants;
- (c) for the purposes of legislative grants,
 - (i) defining any word or expression,
 - (ii) requiring the approval of the Minister to any amount of money, enrolment or rate used in determining the amount of such grants,
 - (iii) prescribing the portions of any expenditure to which such grants apply, and
 - (iv) respecting the application of any part of such grants;
- (d) providing an assessment equalization factor,
 - (i) for each municipality, including, for public and secondary school purposes, any part of territory without municipal organization that is deemed to be attached thereto for such purposes and, for public school purposes, any part of territory without municipal organization that is deemed to be annexed thereto for public school purposes;
 - (ii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part III,
 - (iii) for each part of territory without municipal organization that is deemed to be a district municipality for the purposes of Part IV,
 - (iv) for each public school section that comprises only territory without municipal organization, and
 - (v) for each separate school zone that comprises only territory without municipal organization,and may determine the assessment roll to which each such factor applies;

(e) prescribing the method of calculating the amount of the fee receivable by a board in respect of elementary or secondary school pupils or any class or group thereof, where the board provides education for one or more pupils in respect of whom a fee is payable under this Act, and defining any word or expression used in such regulation.

(f) prescribing the method of calculating average daily enrolment. 1974, c. 109, s. 10 (3); 1976, c. 50, s. 3 (1, 2).

Application
to previous
year

(4) A regulation made in any year under subsection (3) may be made to apply in its operation to that year, to a previous year, or to both.

Estimates
and
expenditures

(5) Subject to the approval of the Lieutenant Governor in Council and to section 134, the Minister may make regulations governing estimates that a board is required to prepare and adopt and expenditures that may be made by a board for any purpose.

School year,
terms and
holidays

(6) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(a) prescribing and governing the school year, school terms and school holidays;

(b) authorizing a board to vary one or more school terms or school holidays as designated by the regulations; and

(c) permitting a board to designate, and to implement with the prior approval of the Minister, a school year, school terms and school holidays for one or more schools under its jurisdiction that are different from those prescribed by the regulations.

Exceptions:
compulsory
attendance

(7) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations prescribing the conditions under which, and establishing the procedures by which, a child who is otherwise required to attend school under Part II and who has attained the age of fourteen years may be excused from attendance at school or required to attend school only part-time. 1974, c. 109, s. 10 (4-7).

Regulations

(8) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

fee for
transcripts

(a) prescribing the fee to be paid to the Ministry for a transcript of standing obtained in Ontario by a pupil;

- (b) prescribing the fee to be paid to the Ministry for duplicates of certificates of qualification and letters of standing; fee for certificates and letters of standing
- (c) prescribing the fee to be paid to the Ministry by a teacher for the preparation at his request of a statement of standing obtained, or a description of courses completed, at a teacher education institution in Ontario, and the forwarding thereof to a certification authority outside Ontario or to an educational institution; fee for statement of standing
- (d) prescribing the conditions under which fees are to be paid to the Ministry for the evaluation of academic certificates, transcripts and other documents of educational standing obtained outside Ontario, and the amounts of such fees; fees for evaluations
- (e) prescribing the fees to be paid for duplicates of diplomas and certificates granted to pupils; fees for duplicates of certificates
- (f) prescribing the fees to be paid for courses provided by the Ministry for teachers, principals and supervisory officers or any class thereof; fees for courses
- (g) prescribing the terms and conditions upon which students may be admitted to a teachers' college, remain therein and be dismissed therefrom; admission to teachers' college
- (h) requiring the payment of a tuition fee by students attending a teachers' college, fixing the amount and manner of payment thereof and prescribing the conditions under which a student is entitled to a refund of the fee or part thereof. 1974, c. 109, s. 10 (8); 1976, c. 50, s. 3 (3, 4). tuition fee teachers' college

(9) A regulation made under this section may be made to apply to The Metropolitan Toronto School Board. 1974, c. 109, s. 10 (9). Metropolitan Toronto School Board

11.—(1) The Crown in right of Ontario, represented by the Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada, represented by the Minister of National Health and Welfare of Canada respecting physical fitness, and the Minister may authorize a board to provide training in physical fitness. Agreements with Canada re: physical fitness

(2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the adminis- pupils at Indian schools

R.S.C. 1970,
c. 1-6

tration of the *Indian Act* (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act.

bursaries and
scholarships

(3) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister of Manpower and Immigration, respecting the establishment, awarding and payment of bursaries and scholarships to students eligible therefor under the regulations. 1974, c. 109, s. 11.

Agreements
with Canada
re learning
materials

(4) The Crown in right of Ontario, represented by the Minister, may enter into an agreement with the Crown in right of Canada in respect of the development and production of learning materials and the sharing of the costs thereof. 1976, c. 50, s. 4.

Continuation
of school
for deaf

12.—(1) The Ontario School for the Deaf for the education and instruction of the deaf and partially deaf is continued under the administration of the Minister.

School for
blind

(2) The Ontario School for the Blind for the education and instruction of the blind and partially blind is continued under the administration of the Minister.

Additional
schools

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, maintain and operate one or more additional schools for the deaf or schools for the blind. 1974, c. 109, s. 12 (1-3).

Demonstra-
tion
schools

(4) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

- (a) establish, maintain and operate one or more demonstration schools; or
- (b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

Idem

(5) Commencing with the school year 1980-81, a demonstration school referred to in subsection (4) that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of the *Provincial Schools Negotiations Act*, and the provincial

R.S.O. 1980,
c. 403

schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. 1980, c. 61, s. 4 (1).

(6) Subject to the approval of the Lieutenant Governor in Council, the Minister may, in addition to his powers under section 10, make regulations with respect to schools continued or established under this section, Regulations

- (a) prescribing the terms and conditions upon which pupils may,
 - (i) be admitted to, and remain in, a school,
 - (ii) reside in homes approved by a superintendent, and
 - (iii) be discharged from a school;
- (b) authorizing the Minister to appoint a committee to determine any question concerning the eligibility for admission of an applicant;
- (c) prescribing the fees, if any, that shall be paid in respect of pupils or any class or classes thereof;
- (d) authorizing the payment of part or all of the transportation costs of pupils whose parents or guardians reside in Ontario, and fixing the maximum amount that may be paid;
- (e) authorizing a superintendent to establish rules in respect of pupils admitted to the school;
- (f) authorizing a superintendent to specify the type and minimum amount of clothing that a parent or guardian shall provide for a pupil;
- (g) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit;
- (h) authorizing a superintendent to dismiss a pupil and prescribing procedures in respect thereof;
- (i) authorizing the Minister to provide training for, and certification of, teachers of the deaf and of the blind;

- (j) designating the name of each school continued or established under this section. 1974, c. 109, s. 12 (4); 1980, c. 61, s. 4 (2).

Cost

(7) The cost of the establishment, maintenance and conduct of the said schools shall be payable out of moneys appropriated therefor by the Legislature. 1974, c. 109, s. 12 (5).

Teacher
education

13.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

- (a) establish, maintain and conduct a college for the professional education of teachers;
- (b) enter into an agreement with a university, a college of a university or a college to provide for the professional education of teachers by the university or college, under such terms and conditions as the Minister and the university or college may agree upon.

Practice
teaching

(2) Where the Minister conducts a teacher education program, a board that operates a public, separate or secondary school shall permit its schools to be used for observation and practice teaching purposes and shall provide for the services of any of its teachers in accordance with a schedule of payments to boards that provide accommodation for practice teaching purposes and to their principals and teachers who participate therein, and such schedule shall be approved by the Lieutenant Governor in Council.

Idem

(3) Where a teacher education program is conducted pursuant to an agreement under clause (1) (b), a board that operates a public, separate or secondary school shall permit its schools to be used for observation and practice teaching purposes and shall provide for the services of any of its teachers under such terms and conditions as may be agreed upon between the board and the institution conducting the program and failing agreement in accordance with the schedule of payments to boards, principals and teachers referred to in subsection (2).

Cost of
teacher
education

(4) The cost of the establishment, maintenance and conduct of a college referred to in clause (1) (a) shall be payable out of moneys appropriated therefor by the Legislature.

Idem

(5) The cost of providing the professional education of teachers by a university, a college of a university or a college under an

agreement referred to in clause (1) (b) shall be payable out of moneys appropriated therefor by the Legislature. 1974, c. 109, s. 13.

14.—(1) The Minister may establish, maintain and conduct camps for leadership training. Leadership training camps

(2) The cost of the establishment, maintenance and conduct of leadership training camps shall be payable out of moneys appropriated therefor by the Legislature. 1974, c. 109, s. 14. Expenses

15.—(1) No private school shall be operated in Ontario unless notice of intention to operate the private school has been submitted in accordance with this section. Intention to operate private school

(2) Every private school shall submit annually to the Ministry on or before the 1st day of September a notice of intention to operate a private school. Idem

(3) A notice of intention to operate a private school shall be in such form and shall include such particulars as the Minister may require. Idem

(4) Every person concerned in the management of a private school that is operated in contravention of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25 for every day such school is so operated. Offence to operate private school without filing notice of intent to operate

(5) The principal, headmaster or person in charge of a private school shall make a return to the Ministry furnishing such statistical information regarding enrolment, staff, courses of study and other information as and when required by the Minister, and any such person who fails to make such return within sixty days of the request of the Minister is guilty of an offence and on conviction is liable to a fine of not more than \$100. Return

(6) The Minister may direct one or more supervisory officers to inspect a private school, in which case each such supervisory officer may enter the school at all reasonable hours and conduct an inspection of the school and any records or documents relating thereto, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on conviction is liable to a fine of not more than \$200. Inspection of school

(7) The Minister may, on the request of any person operating a private school, provide for inspection of the school in Inspection on request

respect of the standard of instruction in the subjects leading to the secondary school graduation diploma and to the secondary school honour graduation diploma, and may determine and charge a fee for such inspection.

Inspection of
teachers

(8) The Minister may, on the request of a person operating a private school or of a person in charge of a conservation authority school or field centre, provide for the inspection of a teacher in such school or centre who requires the recommendation of a supervisory officer for certification purposes.

Offence for
false
statement

(9) Every person who knowingly makes a false statement in a notice of intention to operate a private school or an information return under this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. 1974, c. 109, s. 15.

Variation of
scholarships
and awards
R.S.O. 1980,
c. 161

16.—(1) Where the educational object of a gift or bequest accepted by the Treasurer of Ontario under section 6 of the *Financial Administration Act* is the establishment of a scholarship or an award that is available to one or more students in an elementary or a secondary school or a teacher training institution and,

- (a) the selection of the recipient of the scholarship or award is based upon an examination which is no longer given;
- (b) the school or teachers' college at which attendance is required for eligibility is no longer operated;
- (c) reference to a county or a board in the terms and conditions of the gift or bequest is no longer appropriate by reason of the establishment of a regional municipality or a divisional board of education; or
- (d) the course or program of instruction specified in the terms and condition is no longer available, or is no longer available at the school or teachers' college,

the Lieutenant Governor in Council on the recommendation of the Minister may, from time to time, vary the terms and conditions of the gift or bequest in respect of the qualifications for eligibility for the scholarship or award so as to ensure that such scholarship or award will be granted or given under such terms and conditions as in the opinion of the Minister most nearly approximate those of the original gift or bequest,

and the Minister may delegate his powers under the original terms and conditions of such gift or bequest to a representative of the board, or the educational institution, granting the scholarship or making the award, pursuant to any variation in the terms and conditions of the gift or bequest made under this section.

(2) In the case of an award in the form of a repayable loan for which no person has made application for seven consecutive years, the Lieutenant Governor in Council, on the recommendation of the Minister and with the written consent of the person making the gift or the trustee of the person making the bequest, may capitalize the fund and any interest accrued thereon held by the Treasurer of Ontario, and may change the educational object of the gift or bequest to another object of an educational nature, in which case the provisions of subsection (1) shall apply with necessary modifications. 1974, c. 109, s. 16.

Where award
is repayable
loan

PART II

SCHOOL ATTENDANCE

17. In sections 20, 22, 25, 27 and 29, "guardian", in addition to having the meaning ascribed in law, includes any person who has received into his home another person's child who is of compulsory school age and is resident with him or in his care or legal custody. 1974, c. 109, s. 17.

Interpre-
tation

18. A board may close or authorize the closing of a school or class for a temporary period where such closing appears unavoidable because of,

Closing of
school or class
by board

(a) failure of transportation arrangements; or

(b) inclement weather, fire, flood, the breakdown of the school heating plant, the failure of an essential utility or a similar emergency. 1974, c. 109, s. 18.

19. Where the head of the council of a municipality in which a school is situate proclaims a school day as a civic holiday for the municipality, the board may, by resolution, close any of the schools under its jurisdiction on such day. 1974, c. 109, s. 19.

Closing of
schools on
civic holiday

20.—(1) Unless excused under this section,

Compulsory
attendance

(a) every child who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on

every school day from the first school day in September in that year until he attains the age of sixteen years; and

- (b) every child who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of sixteen years. 1974, c. 109, s. 20 (1).

When
attendance
excused

- (2) A child is excused from attendance at school if,

- (a) he is receiving satisfactory instruction at home or elsewhere;
- (b) he is unable to attend school by reason of sickness or other unavoidable cause;
- (c) transportation is not provided by a board for the child and there is no school that he has a right to attend situated,
- (i) within 1.6 kilometres from his residence measured by the nearest road if he has not attained the age of seven years on or before the first school day in September in the year in question, or
- (ii) within 3.2 kilometres from his residence measured by the nearest road if he has attained the age of seven years but not the age of ten years on or before the first school day in September in the year in question, or
- (iii) within 4.8 kilometres from his residence measured by the nearest road if he has attained the age of ten years on or before the first school day in September in the year in question;
- (d) he has obtained a secondary school graduation diploma or has completed a course that gives him equivalent standing;
- (e) he is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;
- (f) he is suspended, expelled or excluded from attendance at school under any Act or under the regulations;

(g) he is absent on a day regarded as a holy day by the church or religious denomination to which he belongs; or

(h) he is absent or excused as authorized under this Act and the regulations. 1974, c. 109, s. 20 (2); 1978, c. 87, s. 15 (1).

(3) The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause (2) (b). 1974, c. 109, s. 20 (3); 1980, c. 61, s. 5. Blind, deaf or mentally handicapped children

(4) Where a child under compulsory school age has been enrolled as a pupil in an elementary school, this section applies during the period for which the child is enrolled as if he were of compulsory school age. Child under compulsory age

(5) The parent or guardian of a child who is required to attend school under this section shall cause the child to attend school as required by this section. Duty of parent, etc.

(6) Nothing in this section requires the child of a Roman Catholic separate school supporter to attend a public school or a Protestant separate school, or requires the child of a public school supporter to attend a Roman Catholic separate school. 1974, c. 109, s. 20 (4-6). Separate school supporters

21. Where a school year approved by the Minister does not commence on the day following Labour Day, references to the first school day in September and the last school day in June in section 20 shall be read as the first school day in the school year and the last school day in the school year respectively for the purpose of compulsory attendance of pupils of the school or schools or parts thereof to which the school year applies. 1974, c. 109, s. 21. Where school year varied

22.—(1) A principal may suspend a pupil for a fixed period, not in excess of a period determined by the board, because of persistent truancy, persistent opposition to authority, habitual neglect of duty, the wilful destruction of school property, the use of profane or improper language, or conduct injurious to the moral tone of the school or to the physical or mental wellbeing of others in the school and, where a pupil has been suspended, the principal shall notify forthwith in writing the pupil, his teachers, the parent or guardian of the pupil, the board, the appropriate school attendance counsellor and the appropriate supervisory officer of the suspension, the reasons therefor and the right of appeal under subsection (2). Suspension of pupil

Appeal
against
suspension

(2) The parent or guardian of a pupil who has been suspended or the pupil, where he is an adult, may, within seven days of the commencement of the suspension, appeal to the board against the suspension and the board, after hearing the appeal or where no appeal is made, may remove, confirm or modify the suspension and, where the board considers it appropriate, may order that any record of the suspension be expunged.

Expulsion
of pupil

(3) A board may expel a pupil from its schools on the ground that his conduct is so refractory that his presence is injurious to other pupils where,

(a) the principal and the appropriate supervisory officer so recommend;

(b) the pupil and his parent or guardian have been notified in writing of,

(i) the recommendation of the principal and the supervisory officer, and

(ii) the right of the pupil where he is an adult and otherwise of his parent or guardian to make representations at a hearing to be conducted by the board;

(c) the teacher or teachers of the pupil have been notified; and

(d) such hearing has been conducted.

Parties to
hearing

(4) The parties to a hearing under this section shall be the parent or guardian of the pupil or the pupil, where he is an adult, the principal of the school that the pupil attends and, in the case of an expulsion, the appropriate supervisory officer.

Readmission
of pupil

(5) A board may at its discretion readmit to school a pupil who has been expelled. 1974, c. 109, s. 22.

Provincial
School
Attendance
Counsellor

23.—(1) The Lieutenant Governor in Council may appoint an officer, to be known as the Provincial School Attendance Counsellor, who shall, under the direction of the Minister, superintend and direct the enforcement of compulsory school attendance.

Inquiry by
Provincial
Counsellor

(2) Where the parent or guardian of a child considers that the child is excused from attendance at school under subsection 20(2), and the appropriate school attendance counsellor or the Provincial School Attendance Counsellor is of the opinion that the child should not be excused from attendance, the Provincial

School Attendance Counsellor shall direct that an inquiry be made as to the validity of the reason or excuse for non-attendance and the other relevant circumstances, and for such purpose shall appoint one or more persons who are not employees of the board that operates the school that the child has the right to attend to conduct a hearing and to report to him the result of the inquiry and may, by order in writing signed by him, direct that the child,

(a) be excused from attendance at school; or

(b) attend school,

and a copy of the order shall be delivered to the board and to the parent or guardian of the child.

(3) The Provincial School Attendance Counsellor has all the powers of a school attendance counsellor and may exercise such powers anywhere in Ontario. 1974, c. 109, s. 23. Powers of Provincial Counsellor

24.—(1) Every board shall appoint one or more school attendance counsellors. Appointment of school attendance counsellors

(2) Two or more boards may appoint the same school attendance counsellor or counsellors. Idem

(3) Where the office of a school attendance counsellor becomes vacant, it shall be filled forthwith by the board. Vacancies

(4) Notice of the appointment of a school attendance counsellor shall be given in writing by the board to the Provincial School Attendance Counsellor and to the supervisory officers concerned. Notice of appointment

(5) A school attendance counsellor appointed by a board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of every child who is required to attend school and who, Jurisdiction and responsibility of school attendance counsellor

(a) is qualified to be a resident pupil of the board; or

(b) is or has been enrolled during the current school year in a school operated by the board, except a child who is under the jurisdiction of a person appointed under section 119 of the *Indian Act* (Canada). 1974, c. 109, s. 24. R.S.C. 1970, c. I-6

25.—(1) Where a school attendance counsellor has reasonable and probable grounds for believing that a child is illegally absent from school, he may, at the written request of the parent or guardian of the child or of the principal of the Powers of counsellors

school that the child is required to attend, take the child to his parent or guardian or to the school from which he is absent provided that, if exception is taken to his entering a dwelling place, he shall not enter therein without a warrant.

Reports

(2) A school attendance counsellor shall report to the board that appointed him as required by the board.

To act under appropriate supervisory officer and provincial counsellor

(3) A school attendance counsellor is responsible to the appropriate supervisory officer, and shall carry out the instructions and directions of the Provincial School Attendance Counsellor.

Inquiry by counsellor and notice

(4) A school attendance counsellor shall inquire into every case of failure to attend school within his knowledge or when requested so to do by the appropriate supervisory officer or the principal of a school or a ratepayer, and shall give written warning of the consequences of such failure to the parent or guardian of a child who is not attending school as required, and shall also give written notice to the parent or guardian to cause the child to attend school forthwith, and shall advise the parent or guardian in writing of the provisions of subsection 23 (2). 1974, c. 109, s. 25.

Census

26. A board may make or obtain a complete census of all persons in the area in which the board has jurisdiction who have not attained the age of twenty-one years. 1974, c. 109, s. 26.

Reports and information

27.—(1) The principal of every elementary and secondary school shall,

- (a) report to the appropriate school attendance counsellor and supervisory officer the names, ages and residences of all pupils of compulsory school age who have not attended school as required;
- (b) furnish the school attendance counsellor with such other information as the counsellor requires for the enforcement of compulsory school attendance; and
- (c) report in writing to the school attendance counsellor every case of expulsion and readmission of a pupil.

Where no school attendance counsellor

(2) Where a child of compulsory school age has not attended school as required and there is no school attendance counsellor having jurisdiction in respect of the child, the appropriate

supervisory officer shall notify the parent or guardian of the child of the requirements of section 20. 1974, c. 109, s. 27.

28. Where it appears to the Minister that the board of a district school area is not providing accommodation or instruction for its resident pupils either in schools operated by the board or under an agreement with another board in schools operated by such other board, has neglected or failed to raise the necessary funds for the provision of such accommodation and instruction or has in other respects failed to comply with this Act and the regulations, or that the election of members of the board has been neglected and no regular board is in existence, the Minister may authorize and direct the Provincial School Attendance Counsellor to do all things and exercise all powers that may be necessary for the provision and maintenance of accommodation and instruction for the resident pupils of the board including the erection of school buildings and the conduct of schools and for the levying of all sums of money required for the purposes of the board, and generally whatever may be required for the purpose of establishing, maintaining and conducting schools in accordance with this Act and the regulations, and thereupon the Provincial School Attendance Counsellor has, for such period as authorized by the Minister, all the authority and powers vested in, and may, during such period, perform the duties of, the board. 1974, c. 109, s. 28.

29.—(1) A parent or guardian of a child of compulsory school age who neglects or refuses to cause the child to attend school is, unless the child is legally excused from attendance, guilty of an offence and on conviction is liable to a fine of not more than \$100.

Liability of
parent or
guardian

(2) The court may, instead of imposing a fine, require a person convicted of an offence under subsection (1) to submit to the Treasurer of Ontario a personal bond, in a form prescribed by the court, in the penal sum of \$200 with one or more sureties as required, conditioned that the person shall cause the child to attend school as required by this Part, and upon breach of the condition the bond is forfeit to the Crown.

Bond for
attendance

(3) A person who employs during school hours a child who is required to attend school under section 20 is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Employment
during school
hours

(4) Subsections (1) and (3) apply, with necessary modifications, to a corporation and, in addition, every director and officer of the corporation who authorizes, permits or acquiesces in the

Offences by
corporations

contravention is guilty of an offence and on conviction is liable to the same penalty as the corporation.

Habitually
absent from
school

(5) A child who is required by law to attend school and who refuses to attend or who is habitually absent from school is guilty of an offence and on conviction is liable to the penalties provided for children adjudged to be juvenile delinquents under the *Juvenile Delinquents Act* (Canada), and the child and his parent or guardian may be summoned to appear before the Provincial Court (Family Division), and the court has the same powers to deal with such child and his parent or guardian, including the imposition and payment of fines, as it has with respect to a juvenile delinquent and his parent or guardian under the *Juvenile Delinquents Act* (Canada), and subsection 237 (2) applies in any proceeding under this section.

R.S.C. 1970,
c. J-3

Proceedings
under subs. (5)

(6) Proceedings in respect of offences under subsection (5) shall be proceeded with only in accordance with such subsection.

Reference to
provincial
counsellor
for inquiry

(7) Where, in proceedings under this section, it appears to the court that the child may have been excused from attendance at school under subsection 20 (2), the court may refer the matter to the Provincial School Attendance Counsellor who shall direct that an inquiry shall be made as provided in subsection 23 (2) which subsection shall apply with necessary modifications except that the Provincial School Attendance Counsellor shall, in lieu of making an order, submit a report to the court. 1974, c. 109, s. 29.

Proceedings
to be taken by
attendance
counsellors

30.—(1) Prosecutions under section 29 shall be instituted by the school attendance counsellor concerned and prosecutions under subsection 29 (1) shall be instituted in the Provincial Court (Family Division).

Certificate of
principal as
evidence

(2) In prosecutions under section 29, a certificate as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, is *prima facie* evidence of the facts stated therein without any proof of the signature or appointment of the principal.

Proof of
age

(3) Where a person is charged under section 29 in respect of a child who is alleged to be of compulsory school age and the child appears to the court to be of compulsory school age, the child shall, for the purposes of such prosecution, be deemed to be of compulsory school age unless the contrary is proved.

Order re
school
attendance

(4) An order made under subsection 23 (2) shall be admitted in evidence in a prosecution only where the prosecution is in respect

of the school year for which the order was made. 1974, c. 109, s. 30.

31.—(1) A person has the right, without payment of a fee, Resident pupil right to attend school to attend a school in a school section, separate school zone or secondary school district, as the case may be, in which he is qualified to be a resident pupil.

(2) Notwithstanding the other provisions of this Part, where Admission without fee it appears to a board that a person who resides in the area of jurisdiction of the board is denied the right to attend school without the payment of a fee, the board, at its discretion, may admit the person from year to year without the payment of a fee. 1974, c. 109, s. 31.

32.—(1) Subject to sections 34, 37 and 44, a person who Resident pupil public school qualification attains the age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a school section until the last school day in June in the year in which he attains the age of twenty-one years, if,

(a) he resides in the school section in which his parent or guardian who is not a separate school supporter resides; or

(b) he or his parent or guardian is assessed for public school purposes in the school section,

(i) as an owner, or

(ii) for business assessment, or

(iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for public school purposes in that school section, by the average daily enrolment of pupils resident in that school section in such year.

(2) Subject to sections 34, 37 and 44, a person who attains the Resident pupil separate school qualification age of six years in any year is, after the 1st day of September in such year, qualified to be a resident pupil in respect of a separate school zone until the last school day in June in the year in which he attains the age of twenty-one years, if,

- (a) he resides in the separate school zone in which his parent or guardian who is a separate school supporter resides; or
- (b) he or his parent or guardian is assessed for separate school purposes in the zone,
 - (i) as an owner, or
 - (ii) for business assessment, or
 - (iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for separate school purposes in that zone, by the average daily enrolment of pupils resident in that zone in such year.

Evidence as to
right to
attend

(3) It is the responsibility of the parent or guardian to submit evidence that the child has a right to attend an elementary school, including proof of age.

Resident
pupil,
elementary

(4) A person who is qualified to be a resident pupil in respect of a school section or a separate school zone is a resident pupil if he enrolls in a school operated by the board of the school section or separate school zone, as the case may be, or in a school operated by another board to which the board of such school section or separate school zone pays fees on his behalf. 1974, c. 109, s. 32.

Application of
subss. (1, 4)

(5) Subsections (1) and (4) apply with necessary modifications to a trainable retarded child in respect of a school section on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

Application of
subss. (2, 4)

(6) Subsections (2) and (4) apply with necessary modifications to a trainable retarded child in respect of a separate school zone on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first. 1980, c. 61, s. 6.

Kindergarten

33.—(1) Where a board operates a kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age one year lower than that referred to in section 32.

(2) Where a board operates a junior kindergarten in a school, a child who is otherwise qualified and resides within the attendance area of that school may become a resident pupil at an age two years lower than that referred to in section 32. Junior kindergarten

(3) A board may provide a class or classes for children to enter school for the first time on or after the first school day in January and, where the board so provides, a child whose birthday is on or after the 1st day of January and before the 1st day of July, who resides in an area determined by the board and who is eligible to be admitted to an elementary school or kindergarten, as the case may be, on the first school day in the following September, may become a resident pupil in respect of such class. 1974, c. 109, s. 33. Beginners class

34.—(1) In this section,

Interpre-
tation

(a) “board” includes The Metropolitan Toronto School Board;

(b) “hard to serve pupil” means a pupil who, under this section, is determined to be unable to profit by instruction offered by a board due to a mental handicap or a mental and one or more additional handicaps;

(c) “school” includes a school or class for trainable retarded pupils.

(2) Where a principal considers that an exceptional pupil who attends his school is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, or where the parent or guardian of a pupil considers that the pupil is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer, a principal and a legally qualified medical practitioner who has expertise in respect of the mental or other handicap of the pupil, none of whom is a person to whom the matter has been previously referred. Inability to profit by instruction

(3) The committee referred to in subsection (2) shall,

Inquiry
by
committee

(a) in accordance with subsection (4), inquire into the alleged inability of the pupil to profit by instruction offered by the board;

(b) inquire into the handicap or handicaps of the pupil; and

- (c) determine whether the pupil can profit by instruction offered by the board or determine that the pupil is a hard to serve pupil,

and the committee shall make a written report of its findings and of its determination to the board and to the parent or guardian of the pupil.

Idem

(4) The committee shall, for the purposes of its inquiry, study all existing reports in respect of the pupil, hear the teachers, the parent or guardian of the pupil, where reasonably possible the pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the pupil, and of the pupil where he is an adult and capable of giving such consent, obtain and consider in respect of the pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

Costs

(5) Any costs incurred in respect of an assessment or examination under this section, or in respect of the obtaining of other evidence required by the committee under subsection (3) or under subsection (6) shall be paid by the board referred to in subsection (2).

Review

(6) Where the parent or guardian of a person in respect of whom a determination has been made under clause (3) (c), or the person, where he is an adult,

- (a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by instruction; and
- (b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish such belief,

the board shall appoint a committee constituted in accordance with subsection (2) that shall review the determination in respect of the person last made under this section and confirm or alter such determination and for such purpose the committee has the powers and duties of a committee under subsection (3), which subsection applies with necessary modifications to such a review.

Action
to be
taken by
committee

(7) Where a committee under subsection (3) or subsection (6) determines that a pupil is a hard to serve pupil, the committee shall so notify the board and the board shall consider the recommendation and determine that the pupil is a hard to serve pupil or that the pupil is considered to need placement in a special education program, as the case may be, and shall notify the parent or guardian of the pupil in writing of its determination.

(8) Where the board determines that the pupil is considered to need placement in a special education program, the board shall refer the matter to the appropriate committee established under subparagraph iii of paragraph 5 of subsection 10 (1) that shall determine, designate or design an appropriate special education program for the exceptional pupil.

Program for
exceptional
pupil

(9) Where the board determines that the pupil is a hard to serve pupil and the parent or guardian of the pupil agrees with the said determination, the board shall assist the parent or guardian to locate a placement suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Placement
of hard to
serve
pupil

(10) Where,

Appeal to
Tribunal

(a) the board determines that a pupil is a hard to serve pupil and the parent or guardian of the pupil disagrees with such determination and believes that the pupil is able to profit by instruction; or

(b) the board locates a placement under subsection (9) and the parent or guardian disagrees with the placement,

the parent or guardian of the pupil may, within fifteen days of the receipt of the notice under subsection (7) or any time prior to the implementation of the placement under subsection (9), notify the board in writing of the disagreement and the board shall forthwith refer the matter to the secretary of a Special Education Tribunal established under subsection 35 (1), by forwarding all the documentation outlining the special education programs and special education services that have been provided to the pupil and all existing reports and relevant material in respect of the pupil.

(11) The board shall reimburse the parent or guardian for any expenses he incurs in connection with the referral to and subsequent hearing by the Tribunal referred to in subsection (10), provided that such expenses are approved by the Tribunal.

Costs

(12) The Special Education Tribunal shall consider the referral and, after a hearing and review of the report of the committee referred to in subsection (3) and the determination of the board, shall find that,

Hearing by
Tribunal

(a) the pupil is a hard to serve pupil;

(b) the pupil is considered to need placement in a special education program; or

(c) the proposed placement under subsection (9) is or is not suited to the needs of the pupil,

and so notify in writing the parent or guardian of the pupil, the board and the Minister.

Findings
of
Tribunal

(13) Where the Tribunal finds that the pupil is considered to need placement in a special education program, the board shall provide a special education program and special education services for the pupil and the board shall, within sixty days of receipt of the notice under subsection (12), inform the Minister of the special education services that have been provided for the pupil.

Idem

(14) Where, under subsection (12), the Tribunal finds that the pupil is a hard to serve pupil or that the placement under subsection (9) is not suited to the needs of the pupil, the board shall assist the parent or guardian to locate a placement or a new placement, as the case may be, suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

New
Tribunal
provided
R.S.O. 1980,
c. 224

(15) Where, pursuant to an application by the board or by the pupil or on his behalf for judicial review under the *Judicial Review Procedure Act*, the finding of the Special Education Tribunal is set aside, the determination of the board under subsection (7) shall be referred to a Special Education Tribunal for a new hearing conducted by members of the Tribunal other than those who first heard the matter if the board or the parent or guardian of the pupil, as the case may be, makes application therefor to the secretary of the Special Education Tribunal by registered mail within fifteen days after the date of the order of the court setting aside the finding of the Special Education Tribunal and the provisions of subsections (11), (12), (13) and (14) apply with necessary modifications in respect of a hearing by the Special Education Tribunal under this subsection.

Placement
in
Ontario

(16) A placement of a hard to serve pupil under subsection (9) or (14) shall be made in Ontario, except where no placement suited to the needs of the pupil is available in Ontario, a placement may be made outside Ontario.

Cost of
placement

(17) Where a hard to serve pupil is placed under subsection (9) or (14), Ontario shall pay the cost, if any, of such placement. 1980, c. 61, s. 7, *part*.

Establish-
ment of
Special
Education
Tribunal

35.—(1) For the purposes of section 34, the Lieutenant Governor in Council shall establish one or more tribunals known as Special Education Tribunals, provincial or regional, and appoint a secretary of such tribunals.

Procedures
of Special
Education
Tribunals

(2) The Lieutenant Governor in Council may by order,

(a) establish the procedures that shall apply; and

(b) authorize Special Education Tribunals to fix and assess costs,

with respect to matters dealt with by Special Education Tribunals. 1980, c. 61, s. 7, *part*.

36.—(1) Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may apply to the secretary of a Special Education Tribunal for a hearing for leave to appeal to a regional tribunal established by the Minister under subsection (2) in respect of the identification or placement.

Leave
to
appeal

(2) Where leave to appeal is granted under subsection (1), a regional tribunal shall be established by the Minister to hear the appeal of the parent or guardian.

Establishment
of regional
tribunal

(3) Notwithstanding subsection (1), a Special Education Tribunal may with the consent of the parties before it in lieu of granting leave to appeal to a regional tribunal hear and dispose of the appeal of the parent or guardian.

Hearing
by Special
Education
Tribunal

(4) The Lieutenant Governor in Council may make regulations governing the provision, establishment, organization and administration of a regional tribunal and regulating and controlling the practice and procedure before such tribunal including the costs of persons before such tribunal.

Regulations

(5) The decision of a Special Education Tribunal or of a regional tribunal under this section is final and binding upon the parties to any such decision.

Decision
final

(6) The tribunal hearing the appeal may,

Disposition

(a) dismiss the appeal; or

(b) grant the appeal and make such order as it considers necessary with respect to the identification or placement of the pupil. 1980, c. 61, s. 7, *part*.

37. Where a child who would otherwise have the right to attend school in a school section or separate school zone moves with his parent or guardian,

Admission
where pupil
moves into
residence not
assessed in
accordance
with his
school
support

(a) who is not a separate school supporter, into a residence that is assessed to the support of separate schools; or

- (b) who is a separate school supporter, into a residence that is assessed to the support of public schools,

and the latest date upon which the assessment of the residence may be changed from,

- (c) separate to public school support ; or
(d) public to separate school support,

has passed, upon the filing of a notice of change of support for the following year with the clerk of the municipality, the child shall be admitted, without the payment of a fee, to a public or separate school, as the case may be, that will be supported by the assessment of the residence on the effective date of the change of school support. 1974, c. 109, s. 35.

Resident
pupil's right
to attend
more
accessible
school in
adjoining
school section
or separate
school zone

38. Where a resident pupil of a school section or separate school zone resides,

- (a) more than 3.2 kilometres by the shortest distance by road from the school that the pupil is required to attend;
(b) more than 0.8 kilometres by the shortest distance by road from any point from which transportation is provided to the school that the pupil is required to attend; and
(c) nearer by the shortest distance by road to another public school in another school section in the case of a public school pupil, or to another separate school in another separate school zone in the case of a separate school pupil, than to the school that the pupil is required to attend,

the pupil shall be admitted to the nearer public school or the nearer separate school, as the case may be, referred to in clause (c), where the appropriate supervisory officer for the school section or separate school zone, as the case may be, in which such school is situate, certifies that there is sufficient accommodation for the pupil in such school, and where the pupil is admitted to such school, the board of the school section or separate school zone of which he is a resident pupil shall pay in respect of the pupil a fee calculated in accordance with the regulations. 1974, c. 109, s. 36; 1978, c. 87, s. 15 (2).

Resident
pupil
secondary
school
qualification

39.—(1) A person is qualified to be a resident pupil in respect of a secondary school district if,

- (a) he and his parent or guardian reside in the secondary school district ; or

- (b) he or his parent or guardian is assessed in the secondary school district,
 - (i) as an owner, or
 - (ii) for business assessment, or
 - (iii) as an owner and for business assessment,

for an amount that, when adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister, is not less than the quotient obtained by dividing the total equalized assessment, for the year next preceding, of property rateable for secondary school purposes in that secondary school district, by three times the average daily enrolment of pupils resident in that secondary school district in such year; or

- (c) he resides in the secondary school district and is the owner or tenant of property therein that is separately assessed; or
- (d) he is over eighteen years of age and has resided in the secondary school district for the twelve months immediately before his admission to a secondary school in the secondary school district or to a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf.

(2) A person who is qualified to be a resident pupil in respect of a secondary school district is a resident pupil if he enrolls in a secondary school operated by the board of the secondary school district or in a secondary school operated by another secondary school board to which the board of such secondary school district pays fees on his behalf. 1974, c. 109, s. 37 (1, 2). Resident pupil, secondary

(3) Subsections (1) and (2) apply with necessary modifications to a trainable retarded child in respect of a school division until such date as may be designated by the Lieutenant Governor in Council or the 31st day of December, 1984, whichever occurs first. 1974, c. 109, s. 37 (3); 1980, c. 61, s. 8. Trainable retarded child

(4) In subsection (3), school division includes the Metropolitan Area as defined in the *Municipality of Metropolitan Toronto Act*. Metropolitan Area
R.S.O. 1980, c. 314

(5) Notwithstanding any general or special Act, a person who resides in a secondary school district and who, except as to residence, is qualified to be a resident pupil in another secondary school district shall be admitted, without the payment of a fee, to a secondary school operated by the board of the secondary school district in which he resides if, Admission of adult resident who is not a resident pupil

- (a) the person has attained the age of eighteen years and has been promoted or transferred to a secondary school; and
- (b) the appropriate supervisory officer certifies that there is adequate accommodation in the secondary school.

Limitation on
right to
attend
without pay-
ment of fee

- (6) Notwithstanding section 31, where a pupil,
 - (a) has completed elementary school; and
 - (b) has attended one or more secondary schools for a total of seven or more years,

the board of the secondary school that he attends may charge a fee calculated in accordance with the regulations. 1974, c. 109, s. 37 (4-6).

Resident
pupil

40.—(1) Subject to subsections (2) and (3), a person who is qualified to be a resident pupil of a secondary school district has the right to attend any secondary school,

- (a) that is more accessible to him than any secondary school in the secondary school district of which he is qualified to be a resident pupil;
- (b) to take, for the purpose of obtaining the secondary school honour graduation diploma, a subject or subjects not available in the secondary school district of which he is qualified to be a resident pupil but required by him for admission to any university or teacher-training course or for entry into any trade, profession or calling;
- (c) to take a program of study that includes the subject of French for French-speaking pupils in the intermediate or senior division and that is not available in the secondary school district of which he is qualified to be a resident pupil, where such program of study is required by him for admission to any university or teacher-training course or for entry into any trade, profession or calling; or
- (d) to take a program in a French-language school or class if a French-language school or class is not provided by the board of the secondary school district of which he is qualified to be a resident pupil.

Restrictions

(2) Subsection (1) applies to a person who is qualified to be a resident pupil of a secondary school district only if the appropriate supervisory officer certifies that there is adequate accommodation for him in the school.

(3) Clauses (1) (b) (c) and (d) do not apply to a person who is qualified to be a resident pupil of a secondary school district if the board of the secondary school district has entered into an agreement with another secondary school board under section 163 and the programs and subjects referred to in such clauses are offered in the schools covered by the agreement. 1976, c. 50, s. 5.

Where
agreement
between
boards

41.—(1) A person who is qualified to be a resident pupil of a secondary school district and who applies for admission to a secondary school situated in another secondary school district shall furnish the principal of the school to which admission is sought with a statement signed by his parent or guardian or by the pupil where the pupil is an adult, stating,

Admission of
resident pupil
from other
district

- (a) the name of the secondary school district in respect of which he is qualified to be a resident pupil;
- (b) whether or not the pupil or his parent or guardian is assessed in the secondary school district in which the school is situated, and if so assessed the amount of such assessment; and
- (c) the authority, under this Act, under which the pupil claims to have a right to attend the school.

(2) The principal of the school shall forward the statement to the chief executive officer of the board that operates the school and, if the pupil is admitted, the chief executive officer of the board shall forthwith notify the chief executive officer of the board of the secondary school district of which the pupil is qualified to be a resident pupil of the fact of the admission and of the information included in the statement. 1974, c. 109, s. 39.

Notice of
admission

42.—(1) Where a pupil has been promoted from elementary school, he shall be admitted to secondary school.

Admission to
secondary
school

(2) A person who has not been promoted from elementary school shall be admitted to a secondary school if the principal of the secondary school has satisfied himself that the applicant is competent to undertake the work of the school.

Idem

(3) Where an applicant for admission to a secondary school under subsection (2) is denied admission by the principal, the applicant may appeal to the board and the board may, after a hearing, direct that the applicant be admitted or refused admission to a secondary school.

Where
admission
denied

Alternative
course or
program

(4) Where the pupil has clearly demonstrated to the principal that he is not competent to undertake a particular course or program of studies, the principal shall not permit him to undertake such course or program, in which case the pupil may take a prerequisite course, or select with the approval of the principal an appropriate alternative course or program provided that, where the pupil is a minor, the consent of his parent or guardian has been obtained.

Admission
to evening
classes

(5) A person is entitled to enrol in a course of study in an evening class if, in the opinion of the principal after due examination or other investigation, he is considered competent to undertake the desired course, but his admission to such course does not entitle him to be admitted to a day course. 1974, c. 109, s. 40.

Admission
where one
parent is
sole support

43. Where, for any reason, one parent of a person is the sole support of the person, and that parent,

- (a) resides in Ontario;
- (b) is not assessed for school purposes in Ontario; and
- (c) boards the person in a residence that is not a children's residence as defined in the *Children's Residential Services Act*,

R.S.O. 1980,
c. 71

the person shall, if otherwise qualified to be a resident pupil, be deemed to be qualified to be a resident pupil in respect of,

- (d) a school section, if such residence is situate in the school section and is assessed to the support of public schools; or
- (e) a separate school zone, if the person is a Roman Catholic and such residence is situate in the separate school zone and is assessed to the support of separate schools; or
- (f) a secondary school district, if such residence is situate in the secondary school district and is assessed to the support of secondary schools. 1974, c. 109, s. 41; 1976, c. 50, s. 6.

Tax exempt
land

44.—(1) A person who resides in a school section, separate school zone or secondary school district in which his parent or

guardian resides, on land that is exempt from taxation for school purposes, is not qualified to be a resident pupil of the school section, separate school zone or secondary school district, unless the person or his parent or guardian is assessed and pays taxes for school purposes in such school section, separate school zone or secondary school district.

(2) A person who is otherwise qualified to attend an elementary or secondary school and who resides on land that is exempt from taxation for school purposes shall be admitted to a school that is accessible to him where the appropriate supervisory officer has certified that there is sufficient accommodation for the person in the school for the current year, and fees calculated in accordance with the regulations shall, except where the regulations provide otherwise in respect of such fees, be prepaid monthly by the person or by his parent or guardian. 1974, c. 109, s. 42.

Resident on
land exempt
from
taxation

45.—(1) A child who is a ward of a children's aid society or in the care of a children's aid society or a ward of a training school, and who is otherwise qualified to be admitted to an elementary school, shall be admitted without the payment of a fee to an elementary school operated by the board of the school section or separate school zone, as the case may be, in which the child resides.

Admission of
ward, etc.,
of children's
aid society or
training
school
to an
elementary
school

(2) A child who is a ward of a children's aid society or in the care of a children's aid society or a ward of a training school, and who is otherwise qualified to be admitted to a secondary school, shall be admitted without the payment of a fee to a secondary school operated by the board of the secondary school district in which the child resides. 1976, c. 50, s. 7.

Admission of
ward, etc.,
of children's
aid society
or training
school to a
secondary
school

46. Where a child who is in the custody of a corporation, society or person, has not the right under the other provisions of this Part to attend the school that the corporation, society or person elects that he attend, and the appropriate supervisory officer certifies that there is sufficient accommodation in such school for the current school year, the board that operates such school shall, where the child is otherwise qualified to attend such school, admit the child to the school upon the prepayment monthly by the corporation, society or person of a fee calculated in accordance with the regulations. 1974, c. 109, s. 44.

Where fee
payable

47.—(1) Where, on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, a trainable retarded pupil was

Right of
certain pupils
to attend
school in
another
jurisdiction

enrolled in a trainable retarded school or class that he had a right to attend and,

- (a) the parent or guardian of the pupil is a supporter of a board other than the board that operates the trainable retarded school or class that the pupil attends; and
- (b) the board of which the pupil is qualified to be a resident pupil, provides instruction for trainable retarded pupils or has entered into an agreement for the provision of such instruction with a board other than the board that on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, operated the trainable retarded school or class in which the pupil was enrolled,

the trainable retarded pupil has, in addition to any other right that he may have under this Act, the right to attend the trainable retarded school or class in which he was enrolled on the 31st day of December, 1984, or such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, until the last school day in June in the year in which he attains the age of twenty-one years, and where such pupil elects to continue to attend the trainable retarded school or class in which he was enrolled, the board of which he is qualified to be a resident pupil shall pay to the divisional board that operates such school or class a fee calculated in accordance with the regulations. 1980, c. 61, s. 9.

Idem

(2) Where any part of a school section, separate school zone or secondary school district, after the 1st day of January, 1969, forms part of a school division or a county or district combined separate school zone, as the case may be, other than the school division or county or district combined separate school zone in which the school that the pupils resident in such part had the right to attend on the 31st day of December, 1968, is situate, all pupils who reside in such part after the 1st day of January, 1969, may attend such school until the divisional boards concerned, or the county or district combined separate school boards concerned, as the case may be, agree to other arrangements for the accommodation of such pupils.

Idem

(3) Where, on the 31st day of December, 1973, a pupil is enrolled in a public or secondary school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in a school division other than the school division in which the pupil resides, the pupil has, in addition to any right that he may have under this Act, subject to subsection 39 (5), the right to attend the school until he completes his education in the school, and the divisional boards concerned may

enter into an agreement in respect of the transportation to and from school of such pupils.

(4) Where, on the 31st day of December, 1973, a pupil ^{Idem} is enrolled in a separate school that he has a right to attend and the school, on and after the 1st day of January, 1974, is situated in the area of jurisdiction of a separate school board other than the separate school board that has jurisdiction in the area in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, the right to attend the school until he completes his education in the school, and the separate school boards concerned may enter into an agreement in respect of the transportation to and from school of such pupils.

(5) This section does not extend the right acquired by a ^{Application} pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada. 1974, c. 109, s. 45 (2-5).

48.—(1) Where a person qualified to be a resident pupil of a ^{Fees payable} secondary school district attends a secondary school that he has a right to attend under subsection 40 (1), the board of the secondary school district of which he is qualified to be a resident pupil shall pay to the board that operates the secondary school attended by the pupil a fee calculated in accordance with the regulations.

(2) Where a person qualified to be a resident pupil of a ^{Idem} school division attends a public or secondary school in another school division under section 47, the divisional board of which he is qualified to be a resident pupil shall pay to the divisional board that operates the school attended by the pupil a fee calculated in accordance with the regulations. 1976, c. 50, s. 8, *part.*

(3) Where a separate school pupil resident in a county or ^{Idem} district combined separate school zone attends a separate school in another combined separate school zone under section 47, the board of the combined separate school zone in which he resides shall pay to the combined separate school board that operates the separate school attended by the pupil a fee calculated in accordance with the regulations.

(4) A child who resides with his parent or guardian in a residence that is assessed to the support of public schools and who may be excused from attendance under clause 20 (2) (c) may be admitted to a public school in another school section if the appropriate supervisory officer certifies that there is sufficient ^{Admission of resident pupil to another school by reason of distance to school}

accommodation for him, and the board of the section in which the child resides shall pay to the board of the other school section a fee calculated in accordance with the regulations. 1974, c. 109, s. 46 (3, 4).

Admission of
qualified
non-resident
pupil

(5) A board may admit to a school that it operates a person whose admission with or without the payment of a fee is not otherwise provided for in this Act but who, except as to residence, is qualified to attend such school, and may, at its discretion, require the payment by or on behalf of the person of a fee calculated in accordance with the regulations. 1976, c. 50, s. 8, *part*.

PART III

PUBLIC AND SECONDARY SCHOOLS

Tax Exemption of Separate School Supporters

Exemption of
supporters of
separate
schools

49. Nothing in this Act authorizing the levying or collecting of taxes on property rateable for public school purposes applies to the supporters of Roman Catholic separate schools or Protestant separate schools, except that the taxable property in respect of which a person gives notice under section 119 or 138 or under section 14 of the *Assessment Act* is not exempt from taxation for public school purposes imposed before the person becomes a separate school supporter in respect of such property. 1974, c. 109, s. 47.

R.S.O. 1980,
c. 31

Religious Instruction

Religious
instruction

50.—(1) Subject to the regulations, a pupil shall be allowed to receive such religious instruction as his parent or guardian desires or, where the pupil is an adult, as he desires.

Religious
exercises

(2) No pupil in a public school shall be required to read or study in or from a religious book, or to join in an exercise of devotion or religion, objected to by his parent or guardian, or by the pupil, where he is an adult. 1974, c. 109, s. 48.

Visitors

Visitors

51. A parent or guardian of a child attending a public or secondary school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman may visit a public and secondary school in his constituency or in the area where he has pastoral charge, as the case may be. 1974, c. 109, s. 49.

Divisional Boards

52.—(1) A school section or a secondary school district that is designated as such by the Minister on lands held by the Crown in right of Canada or Ontario or by an agency thereof, or on any lands that are exempt from taxation for school purposes, shall not be included in a school division. Application to schools on exempt land

(2) For divisional board purposes, the County of Essex includes Pelee Island. Essex county

(3) In respect of divisional boards of education,

- (a) every school section in existence on the 31st day of December, 1968 that comprised only territory without municipal organization, except a school section established under section 69 or 70; Territory without municipal organization deemed district municipality
- (b) any part of territory without municipal organization that on the 31st day of December, 1968 was part of a high school district but was not in a school section; and
- (c) any part of territory without municipal organization that is designated by a regulation made under subsection 54 (1), or a predecessor thereof, as a district municipality or that is added to a school division without being so designated and that on the 31st day of December, 1968 was not in a school section or in a high school district,

shall be deemed to be a district municipality. 1974, c. 109, s. 50.

53.—(1) Subject to subsection (2), the divisional board of a school division that includes territory without municipal organization that is deemed a district municipality shall, for public school purposes and for secondary school purposes, exercise the powers and duties of a municipal council for such district municipality with respect to preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the divisional board, and with respect thereto and to the election of members of the divisional board all the officers appointed by the divisional board have the same powers and duties as similar officers in an organized municipality and the provisions of subsections 67 (5) to (11) apply with necessary modifications, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school Powers and duties of divisional board re territory without municipal organization

purposes in such district municipality in the ratio that the assessment of such property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes, and shall be included in the levy imposed for school purposes on such property.

Parts of
territory
without
municipal
organization
attached to
municipality

(2) Except as provided in subsection (4), where any part of territory without municipal organization that is included in a school division is attached to a municipality for public school purposes or is deemed to be attached to a municipality for public and secondary school purposes, such part shall continue to be deemed to be attached to such municipality for the purposes of the divisional board, and the officers of such municipality shall collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to such part of territory without municipal organization that forms part of the school division as with respect to any part of the school division that is within the municipality, and the expenses incurred in connection therewith shall be apportioned to the property rateable for public school purposes and to the property rateable for secondary school purposes in such territory without municipal organization in the ratio that the assessment of such property rateable for public school purposes bears to the assessment of such property rateable for secondary school purposes and shall be included in the levy imposed for school purposes on such property, but the divisional board may, by resolution passed before the 1st day of July in any year effective on the 1st day of January next following, a copy of which resolution shall be given forthwith to the Minister, the clerk of the municipality and the appropriate assessment commissioner, detach such territory from the municipality for school purposes and deem such territory to be a district municipality whereupon subsection (1) applies thereto.

Estimates to
include
expenses of
collection,
etc., and
allowances to
be made

(3) The divisional board in preparing estimates of the sums required to be raised under subsection (1) or (2) shall,

- (a) make allowance for the abatement of and discount on taxes, for uncollectable taxes and for taxes that it is estimated will not be collected during the year in such part of the territory without municipal organization;
- (b) include the proper proportion of the salaries and expenses of the officers involved, having regard to the time spent by such officers on their duties under subsection (1) or (2); and
- (c) include the cost of providing elections of members of the board in such territory.

(4) Where any part of territory without municipal organization is attached to a municipality for public school purposes, or is deemed to be attached to a municipality for public and secondary school purposes, and such part is included, pursuant to subsection 59 (9), with one or more municipalities in a combined area for the election of one or more members of the divisional board and the combined area does not include the municipality to which such part is so attached, such part shall be deemed to be attached for election purposes to the municipality that has the greatest residential and farm assessment in the combined area according to the last revised assessment roll as adjusted by the latest assessment equalization factor applicable thereto for each such municipality, provided by the Minister, and the provisions of subsection (2) apply with necessary modifications. 1974, c. 109, s. 51 (1-4).

Where attached territory not included with municipality for election

(5) The secretary-treasurer of an improvement district that forms all or part of a school division, in each year in which an election for members of the divisional board is to be held, shall provide for such election in the improvement district in the same manner as for the election of members of a divisional board in a municipality and shall have all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a divisional board under the *Municipal Elections Act*. 1974, c. 109, s. 51 (5); 1978, c. 44, s. 25.

Elections in improvement districts

R.S.O. 1980, c. 308

54.—(1) The Lieutenant Governor in Council may, by regulation,

School divisions, formation and alteration

- (a) designate as a school division all or part of one or more municipalities, localities, counties, regional municipalities, district municipalities or territory without municipal organization or a combination thereof;
- (b) assign a name, subject to subsections (4), (5), (6) and (7), to the divisional board of a school division;
- (c) dissolve a board of a school division or school section;
- (d) combine two or more adjoining school divisions to form one school division and provide that the board of the combined school division shall be a divisional board of education;
- (e) alter the boundaries of a school division and, where any part of territory without municipal

organization is attached to a school division, designate such part as a district municipality or attach it to a district municipality.

Adjustment
of assets and
liabilities
on formation

(2) Upon the formation of a new school division,

- (a) all lands and premises that become part of a new school division, including the personal property therein or thereon and that, on the last school day immediately prior to such formation, were used as school sites and vested in the board of a school division or school section affected by such formation, become vested in the board of such new school division, and no compensation or damages are payable in respect of such lands, premises and personal property;
- (b) all debts, contracts, agreements and liabilities for which a board or former board was liable in respect of that portion of its area of jurisdiction that becomes part of a new school division become obligations of the board of such new school division unless otherwise determined under clause (c);
- (c) the boards affected by such formation shall, in respect of the area that becomes part of a new school division, adjust in such manner as may be agreed upon by such boards, the assets and liabilities of such boards as of the date of such formation, except the property referred to in clause (a), and, where the boards are unable to agree, any matter in disagreement shall be referred by a board affected to the Ontario Municipal Board, whose decision is final;
- (d) the Minister may, by order, provide for the first election of the divisional board of a new school division, for a new election, subject to subsections 56 (4) to (8), of the divisional board or board of a school section of an altered school division or school section, for the right of pupils affected by such formation to continue to attend schools that they were attending immediately prior to the formation and for any matter not specifically provided for in this section that he considers necessary or advisable to carry out the intent and purposes of this Part.

Dissolution of
board

(3) No regulation made under this section has the effect of dissolving a board unless so provided in the regulation.

(4) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in a defined city is “The Board of Education for the City of” (*inserting the name of the defined city*).
Name of board; defined city

(5) The name of a divisional board that has jurisdiction in one county is “The..... County Board of Education” (*inserting the name of the county*).
county

(6) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in,
regional municipality and counties

- (a) all or part of a regional municipality;
- (b) all or parts of two or more counties; or
- (c) all or part of a regional municipality and all or part of one or more counties,

is “The..... Board of Education” (*inserting the name assigned by the regulations*).

(7) The name of a divisional board that has jurisdiction in the territorial districts is “The..... Board of Education” (*inserting the name assigned by the regulations*). 1974, c. 109, s. 52.
territorial districts

55.—(1) A divisional board of education shall be established in each school division, and the members of the board shall be elected and the board organized in accordance with sections 52 to 59.
Divisional boards establishment

(2) For the purposes of every Act, a school division shall be deemed to be a school section and a secondary school district.
Deemed public school section and secondary school district

(3) Every divisional board is a corporation and has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon,
Powers and duties

- (a) a public school board for public school purposes; and
- (b) a secondary school board for secondary school purposes.

(4) A member of a divisional board who is,
Members to be trustees

- (a) elected by separate school electors; or
- (b) appointed, in the case of a vacancy,

(i) by the remaining members elected to the divisional board by separate school electors, or

(ii) by a separate school board,

is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively, and all other members of a divisional board are trustees for public and secondary school purposes.

Trustees

(5) All members of a divisional board are trustees for the purposes of schools for trainable retarded children. 1974, c. 109, s. 53.

Alteration of boundaries: disposition of assets and liabilities

56.—(1) Where the boundaries of a school division are altered, except by reason of the formation of a new school division, all lands and premises that,

(a) are situate in an area that is added to a school section or secondary school district by such alteration;

(b) are used as school sites on the last school day preceding the effective date of such alteration; and

(c) immediately prior to the effective date of such alteration are vested in another board of education, public school board or secondary school board except a board appointed or formed under section 70,

shall, on and after such effective date, be vested without compensation, subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and premises, in the board of the school section or secondary school district to which such area is added, and the boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

Dispute

(2) Any dispute as to the disposition of property under subsection (1) may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute, and its decision is final.

Employment contracts

(3) The employment contract of every employee of a board who, immediately before the effective date of the alteration of the boundaries of a school division, was required to perform his duties in a school that is vested under subsection (1) in the board of a school division, school section or secondary school district becomes an obligation of the board in which the school is vested.

(4) Subject to subsection (8), where one or more municipalities are detached from a school division and attached to an adjoining school division and a member of the board of the school division from which the municipality or municipalities are detached resides in one such municipality and was elected by public school electors to represent such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such member shall, on the effective date of the attaching of the municipality or municipalities, cease to be a member of the board to which he was elected and shall on such date and for the remainder of his term of office be deemed,

Representation of municipalities detached and added to another school division

- (a) to have been elected by public school electors to the board of the school division to which the municipality in which he resides is attached; and
- (b) to represent on such board the municipality in which he resides and the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 59 (9) at the time of his election and that are also attached to such school division,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under subsection 59 (9) as a municipality or municipalities to be represented by one member to be elected by the public school electors.

(5) Where one or more municipalities are detached from a school division and the number of members of the board of such school division elected by public school electors is reduced pursuant to subsection (4), for the remainder of the term of the board the number of members who remain on the board and who were elected by public school electors and the total number of members who remain on the board shall be deemed to be the number of members to be elected by public school electors under subsection 59 (4) and the total number of members determined under subsection 59 (2) respectively.

Where board reduced by transfer of area

(6) Subject to subsection (8), where a municipality or part thereof is detached from a school division and attached to an adjoining school division, school section or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the enlarged school division, school section or secondary school district, the public school electors of such municipality or part shall be represented thereon by the member or members last elected thereto by the public school electors of the municipality, combination of municipalities or ward that adjoins the attached municipality

Representation of public school electors of municipality attached to school division

pality or part and, where there are two or more such organized municipalities, combinations of municipalities or wards, the members of the board elected by public school electors shall, by resolution, determine which member or members shall represent the public school electors in the attached municipality or part for the remainder of the term of office of the board, but this subsection does not apply to the municipality or municipalities that will be represented by a member by virtue of subsection (4).

Represent-
ation of
separate
school
supporters of
municipality
attached to
school
division

(7) Subject to subsection (8), where one or more municipalities or part or parts thereof are detached from a school division and attached to an adjoining school division or secondary school district, on the effective date thereof and for the remainder of the term of office of the board of the enlarged school division or secondary school district, the separate school supporters in each such municipality or part shall be represented thereon by the member or members last elected thereto by the separate school electors in the area that adjoins such attached municipality and for which one or more members are elected to represent separate school supporters.

Where
subss. (4, 6, 7)
do not apply

(8) Subsections (4), (6) and (7) do not apply where a regular election of the board is to be held in the year preceding the effective date on which the municipality, municipalities or part or parts thereof are attached to the adjoining school division, school section or secondary school district, as the case may be. 1974, c. 109, s. 54.

Composition
of board for
defined city,
members
elected by
public school
electors

57.—(1) Where a school division comprises only a defined city, the members to be elected to the divisional board by public school electors shall, except where the method of election is that provided under subsection 58 (1) or (2), be elected by a general vote of such electors, in which case the number of members shall be determined by the population of the municipality as follows, where the population is,

- (a) less than 10,000, six members;
- (b) 10,000 or more but less than 50,000, eight members;
- (c) 50,000 or more but less than 100,000, ten members;
- (d) 100,000 or more, twelve members.

Change in
number of
members

(2) Where it becomes evident from the population of a defined city that the number of members of the divisional

board to be elected by public school electors should be increased or decreased, at the next election of trustees the proper number of members shall be elected.

(3) In addition to the members elected by the public school electors under subsection 58 (1), the separate school electors in the defined city shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected by the public school electors by the ratio of the residential and farm assessment of the property rateable for separate school purposes in the defined city to the residential and farm assessment of the property rateable for public school purposes in the defined city, according to the latest revised collector's roll, but in no case shall the number of members to be elected under this subsection be fewer than two.

(4) The clerk of the defined city shall make the determination under subsection (3) and shall send to the secretary of the divisional board, before the 1st day of September in the year of the election of the divisional board, a copy of the determination.

(5) The members to be elected under subsection (3) shall be elected as provided in subsection 59 (23), which subsection applies with necessary modifications. 1974, c. 109, s. 55.

58.—(1) The number of members to be elected by the public school electors of a defined city that is divided into wards may be two for each ward, elected by the electors of that ward.

(2) Where a defined city is divided into five or more wards, the number of members to be elected by the public school electors may be one for each ward, elected by the electors of that ward.

(3) Subject to subsection (5), the number of members to be elected by the public school electors of a defined city that is divided into wards, and the method of their election, may be changed from the existing number and method to another number and method that is in accordance with section 57 or this section by resolution passed by majority vote of the members of the board who were elected by the public school electors, and upon notice thereof given by the chief executive officer of the board to the clerk of the defined city before the 1st day of July next preceding the election.

(4) At the election next following the giving of the notice required under subsection (3), the proper number of members shall be elected.

Limitations
on changing
election

(5) A change in the method of election may not be made under this section unless the board has been elected by the existing method for at least the two preceding regular elections. 1974, c. 109, s. 56.

Interpre-
tation

59.—(1) In this section,

- (a) “equalized residential and farm assessment” means the residential and farm assessment referred to in clause (b) as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;
- (b) “residential and farm assessment” means the residential and farm assessment upon which taxes are levied in the year in which,

- (i) a determination referred to in this section is made, or

- (ii) nominations are held,

as the case may be;

- (c) the Town of Newcastle in The Regional Municipality of Durham shall be deemed to be a city.

Composition
of board for
other than
defined city

(2) Subject to subsections (4), (5) and (6), the number of members on a divisional board, except a divisional board of a defined city, shall be determined by the total population of the municipalities, not including any territory without municipal organization that is deemed a district municipality, within the school division, as follows, where the population is,

- (a) less than 50,000, fourteen members;
- (b) 50,000 or more but less than 100,000, sixteen members;
- (c) 100,000 or more but less than 150,000, eighteen members;
- (d) 150,000 or more, twenty members,

provided that where a school division in the territorial districts comprises fewer than four municipalities, not including any territory without municipal organization that is deemed a district municipality, where the population of such municipalities in the school division is,

- (e) less than 3,500, five members ;
- (f) 3,500 or more but less than 5,000, eight members ;
and
- (g) 5,000 or more but less than 10,000, ten members.

(3) Where it becomes evident from the population of the municipalities in a school division that the number of members on a divisional board should be increased or decreased in accordance with subsection (2), at the next election of members the proper number of members shall be elected.

Change in
number of
members

(4) The public school electors of the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection (2) by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but in no case shall the number of members to be elected under this subsection be fewer than,

Number of
members to be
elected by
public school
electors

- (a) six where the number of trustees under subsection (2) is fourteen or more; or
- (b) four where the number of trustees under subsection (2) is fewer than fourteen.

(5) The separate school electors in the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection (2) by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but where the product obtained is less than one, one member shall be elected under this subsection. 1974, c. 109, s. 57 (1-5).

Number of
members to be
elected by
separate
school
electors

(6) The number of members of a divisional board to be elected by the public school electors,

Number of
members to be
elected by
public school
electors in a
city and in
county or
district
municipalities

- (a) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being

raised to the next higher integer, obtained by multiplying the number of members determined under subsection (4) by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the city to the equalized residential and farm assessment of all the property rateable for public school purposes in the school division; and

(b) of the county or district municipalities shall be the number of members determined under subsection (4) less the total number of members determined under clause (a) for the city or cities, if any, but in no case shall the number of members to be elected under this clause be fewer than,

(i) one, or

(ii) two where the school division comprises a regional municipality in which there are fewer than four municipalities. 1974, c. 109, s. 57 (6); 1976, c. 50, s. 9.

When
determina-
tion to be
made under
subss. (4-6)

(7) Before the 1st day of September in the year in which an election is to be held, a determination shall be made,

(a) under subsections (4), (5) and (6) if,

(i) it is determined under subsection (3) that the number of members of the divisional board should be increased or decreased, or

(ii) the boundaries of the school division have been altered subsequent to the latest determination or are to be altered effective on or before the 1st day of January next following the election;

(b) under subsection (6) if,

(i) the boundaries of one or more cities within the school division have been altered or a new city has been erected in the school division subsequent to the latest determination made under subsection (6) that did not take into account the altered boundaries or the new city, or

- (ii) the boundaries of one or more cities within the school division are to be altered or a new city is to be erected effective on or before the 1st day of January next following the election; and

- (c) under subsections (4), (5) and (6) in every fourth year following the latest determination under subsections (4) and (5),

and a determination made under subsection (4), (5) or (6) is effective until a new determination is required in accordance with this subsection. 1974, c. 109, s. 57 (7); 1978, c. 44, s. 2 (1, 2).

- (8) Where a city is not entitled to one or more members under clause (6) (a), the city shall be deemed to be a county or district municipality for the purposes of subsections (6) and (9), and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection (9). 1974, c. 109, s. 57 (8).

Where city does not qualify for at least one member to be elected by public school electors

- (9) With respect to,

- (a) the county municipalities in a county that comprises a school division, the council of the county;
- (b) the county municipalities in a regional municipality that are in a school division and the county municipalities in a school division that comprises a county and part of a regional municipality, the clerks of the three county municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division; and
- (c) the district municipalities in a school division, the clerks of the three organized district municipalities having successively the greatest equalized residential and farm assessment for public school purposes in the school division and the clerk of each town or village in which a secondary school is located in the school division and, where there are fewer than three organized district municipalities in the school division, the clerks of all such municipalities,

Distribution of members to be elected by public school electors in county or district municipalities

shall determine the municipality or municipalities to be represented by each member to be elected in the school division by the public school electors under clause (6) (b), but in no case shall the determination under this subsection provide for a member to be elected by a general vote of all the public school electors of the

municipalities other than cities in the school division, and such determination is effective for a period of four years or until the number of members for the school division is increased or decreased under subsection (3) or the boundaries of one or more county or district municipalities within the school division are altered or are to be altered effective on or before the 1st day of January next following the election. 1974, c. 109, s. 57 (9); 1978, c. 44, s. 2 (3).

Notice of
determina-
tion of
regional
municipality

(10) Where a determination is made under subsection (9) in respect of a school division that is entirely in a regional municipality, the clerk of the county municipality having the greatest equalized residential and farm assessment for public school purposes in the school division shall send forthwith to the clerk of the regional municipality a copy of the determination. 1978, c. 44, s. 2 (4).

Distribution
of members
within com-
bined munic-
ipalities

(11) Where two or more county municipalities that are not in a regional municipality are combined under subsection (9) for the election of two or more members by the public school electors and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may determine that a portion of a county municipality that is so combined be attached to one or more of the other county municipalities in the combination of municipalities for the election of one or two members and, where the clerks of such combined municipalities so determine,

- (a) the number of members to be elected by the public school electors of the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of such combined municipalities, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in each such combined area and in the remainder, if any, of such combined municipalities, bears to the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities; and
- (b) where the remainder of a county municipality is to be represented by two or more members, subsections (23) and (24) apply with necessary modifications in respect of such remainder.

Appeal from
determina-
tion under
subs. (11)

(12) Where the determination made under subsection (11) apportions to a combined area or to the remainder of the combined municipalities a percentage of the total number of

members to be elected by the public school electors of the combined municipalities as determined under subsection (9) that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the combined area or the remainder of the combined municipalities, as the case may be, is of the total equalized residential and farm assessment of the property rateable for public school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after such determination has been made, appeal the determination to the judge who shall either reapportion the number of members in accordance with clause (11) (a) or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final. 1974, c. 109, s. 57 (10, 11).

(13) The determination under subsection (9) shall be made before the 1st day of September, and the determination under subsection (11) may be made before the 15th day of September, in each year in which an election is to be held if,

When
determina-
tion to be
made

(a) a determination is made in accordance with subsection (7); or

(b) the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under subsection (9), or are to be altered effective on or before the 1st day of January next following the election; or

(c) the boundaries of the school division are altered, or are to be altered effective on or before the 1st day of January next following the election. 1974, c. 109, s. 57 (12); 1978, c. 44, s. 2 (5, 6).

(14) Where the determination under subsection (9) is not made before the 1st day of September, the clerk of the county municipality or of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for public school purposes in the school division, shall refer the matter to the judge who shall make the determination before the 1st day of October in accordance with subsection (16), and where, for any reason, the determination is not made before the 1st day of October, the election shall proceed on the basis of the latest determination. 1974, c. 109, s. 57 (13).

Where judge
to make
determina-
tion

Notice of
determina-
tion to
clerk

(15) Where a determination is made under subsection (14) in respect of a school division entirely in a regional municipality, the clerk who referred the matter to the judge shall, upon receipt of the determination of the judge, send a copy thereof to the clerk of the regional municipality. 1978, c. 44, s. 2 (7).

Determina-
tion

(16) In determining under subsection (9),

- (a) the number of members to be elected by the public school electors of a county or district municipality; or
- (b) the county or district municipalities that are to be combined for the election of one or more members by the public school electors of such municipalities,

the council of the county or the clerks of the district municipalities, or the clerks of the county municipalities in a school division in a regional municipality, as the case may be, shall apportion the number of members determined under clause (6) (b), as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

Idem

(17) Notwithstanding subsection (16), where the equalized residential and farm assessment of the property rateable for separate school purposes in a school division in a territorial district is less than 5 per cent of the equalized residential and farm assessment of all the rateable property in the school division, and where the equalized residential and farm assessment of the property rateable for public school purposes in a district municipality, expressed as a percentage of the total residential and farm assessment of all such property in the district municipalities in the school division, differs by fifteen or more percentage points from the population of such municipality expressed as a percentage of the total population of all the district municipalities comprising the school division, the clerks of the district municipalities shall apportion the number of members determined under clause (6) (b), as nearly as is practicable, in the proportion that the population of a district municipality or combination of district municipalities bears to the total population of all the district municipalities comprising the school division, and the right of appeal as provided in subsection (18) applies, but shall be based upon population rather than equalized residential and farm assessment.

(18) Where the determination made under subsection (9) Appeal from determination allots to a municipality or to a combination of municipalities a percentage of the total number of members to be elected by the public school electors of all the county or district municipalities in the school division that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division, the council of the municipality or the council of any one of such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been sent, appeal the determination to the judge who shall either reapportion the number of members in accordance with subsection (16) or, where he determines that the determination was made in accordance with subsection (16), confirm the determination, and his decision is final.

(19) The clerk of each city and of each county municipality, Information for determination district municipality or regional municipality in a school division and the chief executive officer of the divisional board shall provide to the persons required to make a determination under this section, on their request, the information required for such purpose.

(20) The determinations required to be made under subsections (2), (4), (5), (6) and (26) shall be made in respect of a school By whom determination to be made division,

- (a) in a county or in a county and part of a regional municipality, by the clerk of the county;
- (b) entirely in a regional municipality, by the clerk of the regional municipality;
- (c) in the territorial districts,
 - (i) by the clerk of the organized district municipality, or
 - (ii) where the school division does not include an organized district municipality, by the clerk of the city,

that has the greatest equalized residential and farm assessment for public school purposes in the school division,

and the clerk who makes such determinations shall send by registered mail to the clerk of each city and of each county or district municipality in the school division and to the secretary of the divisional board,

- (d) before the 1st day of September in each year in which it is determined under subsection (3) that the number of members of the divisional board should be increased or decreased or in which a determination is made under subsection (9) or (27), a copy of each of the determinations made under subsections (2), (4), (5), (6), (9), (26) and (27); and
- (e) before the 1st day of October in each year in which a determination is made by the judge under subsection (14) or (27), a copy of the determination.

Questions
to be
determined
by judge

(21) The council of any municipality concerned and a divisional board on behalf of any territory without municipal organization that is deemed a district municipality may, within ten days of the mailing of the determination made under subsection (4), (5), (6) or (26), appeal to the judge with respect to the accuracy of the determination, and his decision is final, and the clerk responsible for making such determination shall make such changes in such determination as the judge requires.

New
determina-
tion where
former
determina-
tion improper

(22) Where the council of a municipality or a divisional board on behalf of any territory without municipal organization that is deemed a district municipality, after the period allowed for an appeal under this section and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a school division was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection (18) or (21), shall apply to the election next following such determination, and the divisional board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Election by
public school
electors and
by separate
school
electors

(23) The number of members to be elected in a municipality shall be elected by a general vote of the public school electors or separate school electors, as the case may be, in the municipality, provided that, where it is determined under this

section that the number of members to be elected to the divisional board by the public school electors in a municipality or by the separate school electors in a municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such members by the public school electors or separate school electors, as the case may be, in each of such areas. 1974, c. 109, s. 57 (14-21).

(24) A by-law for the purpose mentioned in subsection (23) and a by-law repealing any such by-law shall not be passed later than the 1st day of September in the year of the election and shall take effect for the purpose of the election next after the passing of the by-law and remain in force until repealed. 1974, c. 109, s. 57 (22); 1978, c. 44, s. 2 (8).

Time for passing by-law

(25) Where two or more county or district municipalities are combined for the election of one or more members, such member or members shall, except where a determination is made under subsection (11), be elected by a general vote of the public school electors of the combined municipalities, and where, under subsection (11) or (12), a portion of a county municipality is attached to one or more other county municipalities for the election of one or two members or the remainder of the combined municipalities comprises parts of two or more municipalities, the number of members apportioned thereto shall be elected by a general vote of the public school electors of such combined area or remainder, and,

Election by public school electors in county and district municipalities

(a) the nominations in each case shall be submitted to the returning officer of the municipality having the greatest equalized residential and farm assessment for public school purposes of any municipality all of which is in the area for which the member or members are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(b) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause (a), who shall prepare the final summary and announce the result of the vote.

Number of members to be elected by separate school electors in cities and county or district municipalities

(26) Where a school division includes one or more county or district municipalities and one or more cities, and the number of

members to be elected by the separate school electors under subsection (5) exceeds one, the number of members to be elected by the separate school electors of each city and of the county or district municipalities shall be determined in accordance with subsections (6), (7) and (8), which subsections apply with necessary modifications, except that the equalized residential and farm assessment of the separate school supporters shall be used in the determinations.

Distribution
of members to
be elected by
separate
school
electors

(27) Where it is determined under subsection (5) or (26) that the number of members to be elected by the separate school electors of the county or district municipalities in the school division exceeds one, the county or district municipalities to be represented by each such member shall be determined in accordance with subsections (9), (13), (14), (16) and (18), which subsections apply with necessary modifications, except that,

- (a) the equalized residential and farm assessments of the separate school supporters shall be used in all the determinations; and
- (b) the reference in subsection (9) to the clerk of a town or village in which a secondary school is located in the school division shall be deemed to refer only to a town or village that is in a separate school zone.

Distribution
of members
within com-
bined munici-
palities

(28) Where two or more county municipalities are combined for the election of two or more members to be elected by separate school electors, subsections (11) and (12) apply with necessary modifications to such combination of municipalities except that the equalized residential and farm assessments of the property rateable for separate school purposes shall be used in all the determinations.

Election of
members by
separate
school
electors

(29) Where the number of members,

- (a) determined under subsection (5) is one, such member shall be elected by a general vote of the separate school electors of the school division; or
- (b) to be elected by the separate school electors of the county or district municipalities under subsection (26) is one, such member shall be elected by a general vote of the separate school electors of the county or district municipalities in the school division.

Idem

(30) Where,

- (a) one member is to be elected by a general vote of the separate school electors of a school division or of the

separate school electors of the county or district municipalities in a school division ; or

- (b) two or more municipalities are combined for the purpose of the election of one or more members by the separate school electors,

then,

- (c) the nominations for such member or members shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the member or members are to be elected who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified ; and
- (d) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause (c), who shall prepare the final summary and announce the result of the vote.

(31) For the purposes of clause (25) (b) and clause (30) (d), the secretary of the divisional board of a school division shall be the clerk of each part of territory without municipal organization that is deemed a district municipality in the school division.

Secretary of board deemed clerk for elections in areas deemed district municipalities

(32) The election of members of a divisional board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1974, c. 109, s. 57 (23-30).

Elections

(33) Where the boundaries of a school division or of one or more municipalities in a school division are to be altered effective on or before the 1st day of January next following an election of members of the board of the school division, such boundaries shall be deemed to have been so altered for all purposes relating to such election except for the purpose of determining the persons responsible for performing duties in connection with the election. 1978, c. 44, s. 2 (9).

Effect of boundary change on elections

(34) Every nominator of a candidate for the office of a member to be elected,

Qualifications for nominators of candidates

(a) by public school electors, shall be a public school elector; and

(b) by separate school electors, shall be a separate school elector. 1974, c. 109, s. 57 (32).

Boards of Education

Interpre-
tation

60.—(1) In this section and in section 61, “board of education” means a board of education other than a divisional board of education.

Establish-
ment and
status of
board

(2) A board of education may be established in a secondary school district that is not a school division to perform the duties of a secondary school board for the district and the duties of a public school board for the school section or sections situated within the boundaries of the district and, where a board of education is established, subsection 55 (3) applies, with necessary modifications.

Name of
board

(3) The name of a board of education that has jurisdiction in one municipality is “The Board of Education for the of”
(*inserting the name of the municipality*).

Idem

(4) The name of a board of education that has jurisdiction in more than one municipality is “The..... Board of Education” (*inserting a name selected by the board and approved by the Minister*).

Members
to be trustees

(5) A member of a board of education elected by separate school electors or, in the case of a vacancy, by the remaining members elected by separate school electors is a trustee for secondary school purposes only and shall not move, second or vote on a motion that affects public schools exclusively and all other members of a board of education are trustees for public and secondary school purposes.

Assets,
liabilities,
etc.

(6) Upon the organization of a board of education,

(a) the secondary school board and all public school boards in the secondary school district are dissolved;

(b) all the property vested in such boards becomes vested in the board of education; and

(c) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the board of education. 1974, c. 109, s. 58.

61.—(1) Where a board of education is established for one municipality that is not a school division or part of a school division, the members of the board shall be elected as provided in section 57, which section applies with necessary modifications, except that the number of members to be elected by the separate school electors shall be,

Composition
of boards of
education

(a) where the population of the municipality is 50,000 or more, not fewer than two; and

(b) where the population of the municipality is less than 50,000, not fewer than one.

(2) Subsections 59 (32) and (34) apply with necessary modifications to the nomination and election of candidates for members of a board of education. 1974, c. 109, s. 59.

Qualifi-
cations for
nominators
of
candidates

District School Area Boards

62.—(1) Every school section that is in a territorial district but is not in a school division or designated as a school section under section 70 is a district school area, and the board of each such school section is a public school board and shall be known as a district school area board. 1974, c. 109, s. 60 (1).

School
section to be
district
school area

(2) In respect of the territorial districts, the Lieutenant Governor in Council may, by regulation,

Formation
and
alteration of
district
school area

(a) form any part thereof that is not in a school section into a district school area;

(b) combine two or more district school areas into one district school area;

(c) add a part thereof that is not in a school division to a district school area; or

(d) detach a portion thereof from one district school area and attach it to another district school area or form it into a new district school area. 1974, c. 109, s. 60 (2); 1976, c. 50, s. 10 (1).

(3) Where a district school area is formed or altered under subsection (2), the appropriate provincial supervisory officer shall notify the assessment commissioner concerned. 1974, c. 109, s. 60 (3).

Notification
of assessment
commissioner

(4) Where the boundaries of a district school area are altered in accordance with clause (2) (b) or (d), the Minister shall, by order,

Arbitration

provide for arbitration of the assets and liabilities of the boards concerned.

Name of
board

(5) The board of a district school area is a corporation by the name of "The.....District School Area Board" (*inserting a name selected by the board and approved by the Minister*). 1974, c. 109, s. 60 (5, 6).

New district
school areas

63.—(1) Where a district school area is formed under clause 62 (2) (b), upon the effective date of such formation the existing public school boards in the new district school area are dissolved, and, subject to subsection 62 (4),

- (a) the property vested in such boards is vested in the new district school area board; and
- (b) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the district school area board.

Alteration
and
formation:
disposition of
assets and
liabilities

(2) Where the boundaries of a district school area are altered or a new district school area is formed under clause 62 (2) (d), upon the effective date of such alteration or formation, and, subject to subsection 62 (4),

- (a) all real and personal property of the board situate in the part of the district school area that is detached is vested in the board of the district school area to which such part is attached, or in the board of the new district school area, as the case may be; and
- (b) all debts, contracts, agreements and liabilities of the board in respect of the part of the district school area that is detached become obligations of the board of the district school area to which such part is attached or of the board of the new district school area, as the case may be. 1974, c. 109, s. 61.

Public school
electors

64.—(1) In sections 64, 65 and 66, "public school electors" in respect of territory without municipal organization means,

- (a) owners and tenants of property in such territory without municipal organization; and
- (b) the spouses of such owners and tenants,

who are Canadian citizens or British subjects and of the full age of eighteen years and who are not separate school supporters. 1976, c. 50, s. 11.

(2) Subject to subsections (3) and (4), a district school area board shall be composed of three members. 1974, c. 109, s. 62 (1, 2). Composition of board

(3) Where a school section that became a district school area on the 1st day of January, 1975, had a board of five members, the district school area board shall be composed of five members. 1974, c. 109, s. 62 (3), *revised*. Idem

(4) Before the 1st day of July of an election year, the board of a district school area that is not an improvement district may, by resolution approved at a meeting of the public school electors, determine that the number of members to be elected shall be increased from three to five and, at the next following election, five members shall be elected. 1974, c. 109, s. 62 (4). Increase in number of members

(5) The election of members of the board of a district school area that is not an improvement district shall be held in the year 1974 and in every second year thereafter, and the members shall hold office for a term of two years except that, Election year and term of office

(a) where a new district school area is formed to take effect on the 1st day of January in the year 1976 or in any second year thereafter, the first members of such board shall be elected in the year preceding such 1st day of January and shall hold office for one year; or new board in "off election year"

(b) where the boundaries of a district school area are altered to take effect on the 1st day of January in the year 1976 or in any second year thereafter, a new district school area board shall be elected in the year preceding such 1st day of January, and the members so elected shall hold office for one year. 1974, c. 109, s. 62 (2-5). idem

(6) The term of office of members of the board of a district school area that is not an improvement district who are elected in the year 1978 and in regular elections thereafter shall commence on the 1st day of December in the election year. 1978, c. 44, s. 3. Term of office

Elections and Meetings of Electors

65.—(1) Except as provided in section 66, a district school area board shall be elected at a meeting of the public school electors held on the second Monday in November or where Election date

that day is Remembrance Day, on the next succeeding day in the year of an election at a time and place selected by the board. 1974, c. 109, s. 63 (1); 1978, c. 44, s. 4.

Notice of
meeting

(2) At least six days before a meeting under subsection (1) or (6), the secretary of the board shall post notice of the meeting, including notice of any resolution required to be approved by the electors, in three or more of the most prominent places in the district school area and may advertise the meeting in such other manner as the board considers expedient. 1974, c. 109, s. 63 (2); 1976, c. 50, s. 12.

Meeting

(3) Meetings of public school electors shall be conducted in the manner determined by the public school electors present at the meeting by a presiding officer selected by such electors, but the election of members of the board shall be by ballot, and the minutes of the meeting shall be recorded by a secretary selected by such electors.

First
meeting

(4) The first meeting for the election of a board of a district school area formed or altered under subsection 62 (2) shall be held at a time and place named by a person, designated by the Minister, who shall make the necessary arrangements for the meeting.

Minutes to be
sent to
Ministry

(5) A correct copy of the minutes of every meeting of the public school electors, signed by the presiding officer and the secretary of the meeting, shall, within ten days after the meeting, be transmitted by the presiding officer to the Ministry.

Special
meetings

(6) A special meeting of the public school electors shall be called by the secretary when directed by the board or upon the request in writing of five public school electors of the area, by posting notice of the meeting in three or more of the most prominent places in the district school area, and such notice shall include a clear statement of the date, time, place and objects of the meeting, and the meeting may be advertised in such other manner as is deemed necessary.

Declaration
where right
to vote
objected to

(7) If objection is made to the right of a person in territory without municipal organization to vote at a meeting under this section, or at an election under section 66, the presiding officer or the returning officer, as the case may be, shall require the person to make the following declaration:

I,, declare and affirm that:

1. I am the owner (*or* tenant) of property in The.....
District School Area; *or*, I am the spouse of the owner (*or*
tenant) of property in The.....
District School Area;

2. I am of the full age of eighteen years;
3. I am a Canadian citizen or British subject;
4. The property in respect of which I claim the right to vote is not assessed to the support of separate schools;
5. I have a right to vote at this election (or on the question submitted to this meeting),

and after making such declaration the person making it is entitled to vote.

(8) Subsections 100 (8), (9), (10), (11), (12), (14), (15), (16), (17), (18), (20) and (21) apply with necessary modifications to an election under this section. 1974, c. 109, s. 63 (3-8). Election procedures

66.—(1) Notwithstanding section 65, before the 1st day of July in an election year, the board of a district school area may, by resolution approved at a meeting of the electors, determine that the board shall conduct the elections in the same manner as for the members of a divisional board of education, except that the members shall be elected by a general vote of the electors of the district school area and for such purposes subsection 53 (1) applies with necessary modifications to the district area board and to the officers of such board. 1974, c. 109, s. 64 (1). Elections

(2) The board shall give notice of the determination made under subsection (1) to the electors in the same manner as provided in subsection 65 (2). 1974, c. 109, s. 64 (2); 1976, c. 50, s. 13. Idem

(3) Where a district school area comprises, Idem

- (a) a municipality other than an improvement district;
- (b) a municipality and territory without municipal organization;
- (c) all or part of two or more municipalities; or
- (d) all or parts of two or more municipalities and territory without municipal organization,

the election of the board of such district school area shall be conducted under the *Municipal Elections Act*, and for the purposes of an election under this section in an improvement district or in territory without municipal organization the secretary of the board shall be the returning officer in respect of the improvement district or territory without municipal organization and shall perform all the duties that are required of a municipal clerk in relation

R.S.O. 1980,
c. 308

to the election of members of a divisional board. 1974, c. 109, s. 64 (3); 1978, c. 44, ss. 5, 25.

**Powers and
duties**

67.—(1) The board of a district school area that includes territory without municipal organization shall, for public school purposes and in accordance with the regulations for community recreation purposes, exercise the powers and duties of a municipal council for such territory in respect of levying rates and collecting taxes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed by the board on the property rateable for public school purposes in such territory without municipal organization. 1974, c. 109, s. 65 (1).

**Auditors and
financial
matters**

(2) Subject to subsection (4), the provisions of sections 207, 208, 209 and 213 respecting auditors, debentures, estimates and apportionment apply with necessary modifications in respect of a district school area and to the board thereof. 1974, c. 109, s. 65 (2); 1976, c. 50, s. 14.

**Rates in
municipality**

(3) Where a district school area includes a municipality, section 215 applies with necessary modifications to the council of the municipality.

Debentures

(4) A district school area board in territory without municipal organization may not apply to the Ontario Municipal Board in respect of the issue of debentures for a permanent improvement until such issue has been sanctioned at a special meeting of the public school electors.

**Collection
of taxes**

(5) The board of a district school area may appoint a tax collector who has in that part of the district school area that is not a municipality the same powers in collecting the school rate or subscriptions, and is under the same liabilities and obligations and shall proceed in the same manner in the school section, as a township collector in collecting rates in a township.

**Return of
arrears of
taxes in
unorganized
territory**

(6) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the territorial district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return with the year for which the rates so in arrear were imposed.

(7) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Entry in
sheriff's book

(8) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but, in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof, and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him.

Payments of
arrears
thereafter

(9) After the expiration of such period, all such arrears are payable to the sheriff, who shall enter all payments in the book kept by him and shall return the amount paid to the treasurer of the board.

When arrears
to be paid to
sheriff

(10) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect the same by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same, as nearly as may be, as in the case of the sale of lands for arrears of taxes in organized municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality.

Sale of land
for arrears

(11) Where the tax arrears procedures under the *Municipal Affairs Act* are in effect in a district school area, it is not necessary for the collector to furnish to the sheriff any of the information or statements required under this section in respect of tax arrears, and the powers and duties of the sheriff in respect of tax arrears and tax sales do not apply in respect of the school section, and all the powers and duties of the sheriff in respect of tax arrears are vested in the treasurer of the board.

Where tax
arrears pro-
cedures of
R.S.O. 1980,
c. 303
in effect

(12) In the first year that any territory without municipal organization is included in a district school area, the rates for that year shall be levied on the assessment of the property in such territory made for that year. 1974, c. 109, s. 65 (3-12).

Rates for
first year
to be levied
on current
assessment

68.—(1) Where the number of public school pupils of compulsory school age residing in a district school area is fewer than ten and the board has ceased to operate a school, the Minister may declare the district school area inactive as of the 31st day of December in any year.

District
school area to
be inactive

Accounts in
inactive area

(2) When a district school area is declared to be inactive, the board shall liquidate its assets, settle its accounts and have them audited, and forward to the Ministry the audited statement of accounts, the auditor's report and the balance of the funds for deposit in the Consolidated Revenue Fund.

Board
dissolved

(3) If the Minister is satisfied that the board has carried out its duties under subsection (2) he shall dissolve the board and the district school area shall cease to exist as of the date that the district school area was declared inactive under subsection (1).

Records to be
forwarded to
Ministry

(4) The records of the dissolved board of the district school area shall be filed as the Minister may direct and, for the purposes of this Act, the pupils resident in such area shall be deemed not to reside in a school section.

Closing of
school by
Minister

(5) Where in any district school area there are for two consecutive years fewer than eight persons between the ages of five and fourteen years residing therein, the Minister may direct that the public school of the area shall no longer remain open, and the school shall thereupon be closed until the Minister otherwise directs. 1974, c. 109, s. 66.

Secondary Schools Outside School Divisions in Territorial Districts

In territorial
districts

69.—(1) The Lieutenant Governor in Council may establish any area in the territorial districts that is not part of a school division as a secondary school district and may discontinue or decrease or increase the area of any such secondary school district and, if any such secondary school district is discontinued, or the area is decreased or increased, the assets and liabilities of the board shall be adjusted or disposed of as determined by the Ontario Municipal Board.

Board in
territorial
districts out-
side school
divisions

(2) Where a secondary school district is established under subsection (1), the Lieutenant Governor in Council may make regulations providing for,

- (a) the formation and composition of a secondary school board;
- (b) the apportionment of costs within the secondary school district; and
- (c) the issuing of debentures by the board for permanent improvements,

and the board is a corporation by the name designated by the Lieutenant Governor in Council.

(3) The board shall exercise the powers and duties of a municipal council for that part of the secondary school district that comprises territory without municipal organization in respect of levying rates and collecting taxes for secondary school purposes, and the officers appointed by the board have the same powers and duties as similar officers in a municipality, and the expenses in connection therewith shall be raised by a levy imposed on the property rateable for secondary school purposes in such territory without municipal organization.

Powers and
duties

(4) The provisions of sections 207 and 209 respecting auditors and estimates apply with necessary modifications to the board of a secondary school district established under this section.

Auditors and
estimates

(5) Where a secondary school district established under this section includes a municipality, section 215 applies with necessary modifications to the council of the municipality.

Rates in
municipality

(6) Subsections 67 (5) to (12) apply with necessary modifications in respect of a secondary school district established under this section and to the board thereof.

Collection
of taxes

(7) The Lieutenant Governor in Council may establish a board of education for a secondary school district established under subsection (1), in which case the other provisions of this section and subsections 60 (5) and (6) apply, with necessary modifications, to the board of education for public school purposes and for secondary school purposes. 1974, c. 109, s. 67.

Board of
education

Boards on Tax Exempt Land

70.—(1) Where, in the opinion of the Minister, it is desirable to establish and maintain a public school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a school section and may appoint as members of the board such persons as he considers proper, and the board so appointed is a body corporate by the name indicated in the order establishing the school section and has all the powers and duties of a divisional board for public school purposes.

Public school
on Crown
lands

(2) Where, in the opinion of the Minister, it is desirable to establish and maintain a secondary school board on lands held by the Crown in right of Canada or Ontario, or by an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may by order designate any portion of such lands as a secondary school district, and may

Secondary
school on
exempt land

appoint as members of the board such persons as he considers proper, and the board so appointed is a corporation by the name indicated in the order establishing the secondary school district and has all the powers and duties of a divisional board for secondary school purposes.

Board of education on exempt land

(3) Where a secondary school district has been designated under subsection (2), the Minister may authorize the formation of a board of education for the district and may provide for the name of the board, its composition and the term or terms of office of the members thereof, and for all other purposes the provisions in respect of divisional boards apply to the board.

Section not to be included in district school area or school division

(4) No school section or secondary school district designated under this section shall be included in a district school area or a school division.

Fee payable by non-resident

(5) Where a pupil attends a school that is operated by a board appointed under this section in a centre for the treatment of cerebral palsy, a crippled children's treatment centre, a hospital or a sanatorium and is not a resident pupil of such board, the board of which he is a resident pupil or is qualified to be a resident pupil shall pay to the board that operates the school a fee calculated under the regulations and, where he is not a resident pupil or qualified to be a resident pupil of a board and his cost of education is not payable by the Minister under the regulations, his parent or guardian shall pay to the board that operates the school a fee fixed by such board, but such fee shall not be greater than the fee calculated under the regulations. 1974, c. 109, s. 68.

Schools for Trainable Retarded Children

Interpretation

71.—(1) In sections 71 to 78,

- (a) "board" means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) "committee" means an advisory committee on schools for trainable retarded pupils;
- (c) "local association" means a parents' group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board.

(2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils. 1980, c. 61, s. 10.

Metropolitan
Toronto
School
Board

72.—(1) Subject to subsections (2) and (4) and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils,

Provision
of
adequate
accommodation

(a) who are exceptional pupils of the board; and

(b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 10 (1),

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection (1), enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils.

Agreement
with other
board

(3) Where an agreement has been entered into under subsection (2), a committee established under paragraph 5 of subsection 10 (1) by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement.

Placement
and review

(4) Subsections (1) and (2) apply on the 1st day of January, 1985 or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, to a public school board, a Roman Catholic separate school board and a Protestant separate school board. 1980, c. 61, s. 11.

Application of
subss. (1, 2)

73.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 72 (2) or to which he is admitted under subsection (2) until the last school day in June in the year in which he attains the age of twenty-one years.

Attendance
beyond
age 21

Admission
of other
trainable
retarded
pupils

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the right to attend such school under subsection (1) where the committee of the board established under paragraph 5 of subsection 10 (1) recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil. 1980, c. 61, s. 12.

Advisory
committee

74.—(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection (2), establish an advisory committee on schools for trainable retarded pupils.

Idem

(2) Where a divisional board establishes a committee under subsection 182 (2), it may,

- (a) discontinue the committee established under subsection (1); or
- (b) continue the committee established under subsection (1) and appoint one of the members appointed under clause (4) (b) to the committee established under subsection 182 (2).

Idem

(3) A board other than a board referred to in subsection (1) may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections (4) to (8) and sections 75 and 76 apply with necessary modifications to such advisory committee. 1980, c. 61, s. 13.

Composition

(4) The committee shall consist of six members, of which,

- (a) three shall be appointed by the divisional board from among its members; and
- (b) three shall be appointed by the local association, or where there is more than one local association, three shall be appointed at a joint meeting of the associations concerned or, where there is no local association, three who are not members of the board shall be appointed by the board.

Qualifica-
tion of
members

(5) The members of the committee appointed by the local association or associations shall have the qualifications required for the members of the divisional board.

Term of
office

(6) The members of the committee shall hold office until the expiry of the term for which the members of the divisional board were elected.

(7) Every vacancy on a committee occasioned by death, Vacancies removal or other cause shall be filled by appointment by the divisional board or the local association or associations, as the case may be, of some qualified person, and every person so appointed shall hold office for the unexpired portion of the term of the member whose office has become vacant.

(8) The divisional board may pay to each member of the Allowance committee who is not a member of the divisional board an allowance in accordance with subsection 167 (1), except that the maximum allowance shall be based upon the enrolment in schools or classes for trainable retarded children and subsection 16. (5) applies with necessary modifications to such member. 1974, c. 109, s. 72 (2-6).

75.—(1) A majority of the members of the committee is a Quorum quorum, and a vote of a majority of the members present at a meeting is necessary to bind the committee.

(2) The members of the committee shall, at their first Chairman meeting, elect one of themselves as chairman who shall preside at all meetings and, if at any meeting the chairman is not present, the members present may elect a chairman for that meeting.

(3) On every motion, the chairman may vote with the Chairman voting other members of the committee, and any motion on which there is an equality of votes is lost.

(4) The divisional board shall make available to the committee such personnel and services as the divisional board Personnel and services available to committee considers necessary for the proper functioning of the committee. 1974, c. 109, s. 73.

76.—(1) The committee may make recommendations to the Powers of committee divisional board relating to matters affecting the establishment and development of programs, services and facilities in respect of trainable retarded children.

(2) Before making a decision on a recommendation of the Right of committee to be heard committee, the divisional board shall provide an opportunity for the committee to be heard before the board and before any committee thereof to which the recommendation is referred. 1974, c. 109, s. 74.

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations. 1980, c. 61, s. 15. Fees for non-resident pupils of divisional boards

Boarding of
pupils where
daily trans-
portation
impracticable

78.—(1) Where a pupil resides in a school division with his parent or guardian in a residence from which daily transportation to a school or class for trainable retarded children that he has a right to attend is impracticable due to distance or terrain as certified by the appropriate supervisory officer of the school division in which the pupil resides, the board of the school division in which his parent or guardian resides may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends. 1974, c. 109, s. 78 (1).

Idem

(2) Where a pupil resides in a school section or in a separate school zone with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer who has jurisdiction in the school section or separate school zone, the board of the school section or of the separate school zone of which his parent or guardian is a supporter may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends. 1974, c. 109, s. 78 (2); 1980, c. 61, s. 16 (1).

Idem

(3) Where a pupil resides in a territorial district, but not in a school division, school section or separate school zone, with his parent or guardian in a residence from which daily transportation to the school or class for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer of the board of the school that he attends, the board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to the school or class and return, in an amount set by the board for each day of attendance as certified by the principal of the school or class for trainable retarded children that the pupil attends. 1974, c. 109, s. 78 (3); 1980, c. 61, s. 16 (2).

Certification
of
attendance

(4) For the purpose of certifying attendance under subsections (1), (2) and (3), the principal may add to the number of days of attendance of a pupil the number of days the pupil is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. 1974, c. 109, s. 78 (4).

PART IV

ROMAN CATHOLIC SEPARATE SCHOOLS

79. This Part applies to separate schools for Roman Catholics now or hereafter established and shall have the same effect as if this Part were a special Act respecting separate schools for Roman Catholics. 1974, c. 109, s. 79.

Application
of Part

Zones

80.—(1) The boundaries of separate school zones shall be determined in relation to their centres.

Boundaries of
zones

(2) Where a board operates a separate school, the centre of the separate school zone is the most northern corner astronomically of the site of the separate school provided that, where the most northern boundary of the site has a bearing due west astronomically, the corner of the site at the western extremity of the most northern boundary is the centre.

Centre of
zone

(3) Where a board operates two or more separate schools, there shall be a centre for each school.

Centres where
two or more
schools

(4) Where a board does not operate a school but owns one parcel of land, for the purpose of determining the centre of the separate school zone, the board shall be deemed to operate a school on such parcel of land.

Centre where
board owns
land but does
not operate
school

(5) Where a board does not operate a separate school or own a parcel of land, a parcel of land approved by the supporters for the purpose of determining the centre of the zone shall be deemed to be the site of a separate school for such purpose, and the board shall notify the Minister, the clerks of the municipalities concerned and the chief executive officers of the divisional boards or the secretaries of public school boards affected, before the 30th day of September of the year in which the parcel was so approved.

Centre where
board does
not operate
school or
own site

(6) The centres of a combined separate school zone are the centres determined in respect of each school site on which a school is operated and include the centre of each former zone that became part of the combined separate school zone and in which a separate school is not operated. 1974, c. 109, s. 80 (1-6).

Centres of
combined zone

(7) Subject to section 82, every parcel of land that is wholly or partly within a radius of 4.8 kilometres from a centre of a separate school zone is within the zone. 1974, c. 109, s. 80 (7); 1978, c. 87, s. 15 (3).

Rural and
combined
separate
school zone

Urban
separate
school zone

(8) Subject to section 82, where a separate school board is established in an urban municipality, the urban separate school zone includes the urban municipality and any parcel of land that is within,

- (a) a township; or
- (b) an urban municipality in which a separate school zone has not been established,

and that is within a radius of 4.8 kilometres from a centre in the urban municipality. 1974, c. 109, s. 80 (8); 1978, c. 87, s. 15 (4).

Zones not to
include
organized and
unorganized
territory

(9) A separate school zone, except a combined separate school zone, shall not include land in a municipality as well as land in territory without municipal organization. 1974, c. 109, s. 80 (9).

Maps and
descriptions
of zones

81.—(1) For each separate school zone that includes part or all of a township or territory without municipal organization, the appropriate separate school supervisory officer shall,

- (a) prepare maps of each township in which part or all of a separate school zone is located showing the boundary of each separate school zone therein or partly therein;
- (b) describe each zone by indicating the name of the board, the centre of the zone, and the municipalities wholly or partly within the zone;
- (c) where the boundary of a zone is altered, prepare a revised map and description;
- (d) sign and date the original maps and description of each zone and retain them on file; and
- (e) furnish,
 - (i) to each separate school board, a map or description of its zone,
 - (ii) to the township clerk and assessor or assessment commissioner, a map showing the zone boundaries and a description of each zone, and
 - (iii) to the chief executive officer of a divisional board or the appropriate supervisory officer for a public school board affected, a description

of each separate school zone within the area of his jurisdiction.

(2) Where a separate school has been established in a school section that includes an urban municipality or a portion of an urban municipality, and a township or a portion of a township, and a majority of the ratepayers assessed as separate school supporters in the township or portion of a township petition the board of the separate school to notify the supervisory officer of separate schools that the separate school supporters in the township or portion of a township are desirous of establishing a separate school therein, the supervisory officer may signify in writing to the board his approval of the establishment of the separate school, and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and the school may be established and trustees may be elected in the manner provided in section 83.

Establishment of separate school in a portion of rural section

(3) Where a separate school zone is established and the boundaries of adjoining separate school zones are thereby altered, the board concerned shall, in the manner provided in subsection (5), appoint a board of arbitrators who shall determine the assets and liabilities of the boards and the amounts, if any, that shall be paid by one board to the other board, and the award of the board of arbitrators is final and binding.

Arbitrate assets and liabilities

(4) Where a combined separate school zone includes a former zone in territory without municipal organization and a former zone in a municipality, the combined separate school board is responsible for the levying and collecting of rates for separate schools in the territory without municipal organization and the board and the council of the municipality may enter into an agreement providing for the officers of the municipality to levy and collect rates for separate schools in such territory without municipal organization.

Rates in unorganized territory in combined zone

(5) The appropriate supervisory officer, a person chosen by the newly established board and a person chosen by each of the separate school boards, the boundaries of which have been altered, shall constitute a board of arbitrators. 1974, c. 109, s. 81.

Constitution of board of arbitrators

82.—(1) Where two or more separate school zones would otherwise overlap in a township or in territory without municipal organization, the appropriate supervisory officers shall, after they have consulted with the boards involved, determine a boundary between each of the zones in the township or territory.

Boundaries where zones overlap

Failure to
make
determina-
tion

(2) Where more than one supervisory officer is involved in the determination under subsection (1), and the supervisory officers fail to make a determination, the matter shall be referred to the judge by the board concerned that has the greatest equalized assessment for separate school purposes.

When
alteration
effective

(3) A boundary in the overlapping area may be altered before the 1st day of July in any year, and such alteration shall be effective on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be effective on the day of nomination for trustees.

Appeal

(4) A separate school board or a separate school supporter affected by the determination of the supervisory officer may appeal the determination to the judge before the 1st day of August following the determination.

All parts of
zone to be
adjoining

(5) The boundaries of a separate school zone as determined by the supervisory officer or altered by a judge shall follow one continuous line so that all parts of the zone are adjoining.

Effect of
change in
boundaries

(6) Where a change in the boundary of a separate school zone under this section results in the transfer of a parcel of land from one zone to another zone, the taxes levied and collected for separate school support in respect of such parcel of land, in the year following the determination by the supervisory officer or judge, shall be paid to the separate school board of the zone to which the parcel of land is transferred. 1974, c. 109, s. 82.

Formation and Discontinuance of Zones

Meeting to
establish
separate
school zone

83.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a city, town, village, or a 9.6 kilometre square area in one or more townships and not within an area designated by the regulations made under subsection 105 (2), may convene a public meeting of persons desiring to establish a separate school zone with centre therein. 1974, c. 109, s. 83 (1); 1978, c. 87, s. 15 (5).

Procedure

(2) Where such a meeting is held, the persons present shall,

(a) elect a chairman and a secretary for the meeting;

- (b) pass a motion determining the centre of the separate school zone to be established;
- (c) where the zone to be established is in one or more townships, subject to clause (5) (b), select a name for the board;
- (d) elect the required number of trustees; and
- (e) require the chairman of the meeting to transmit notice in writing of the holding of the meeting and of the election of trustees to the clerks of the municipalities and to the chief executive officer of the divisional board or the secretary of the public school board, as the case may be, for the area in which the separate school zone is to be established designating by name and residence each of the persons elected as trustees.

(3) Each of the officers receiving the notice shall certify Certification thereon the date of its receipt, and shall transmit a copy of the notice so certified to the chairman of the meeting.

(4) The chairman of the meeting shall forthwith trans- Notification mit the copy of the certified notice, a copy of the minutes of the meeting, and of the notice calling it, to,

- (a) the Minister; and
- (b) the appropriate assessment commissioner. 1974, c. 109, s. 83 (2-4).

(5) On and after the transmission to the Minister of the Corporate name documents referred to in subsection (4), the separate school zone is established and the trustees named therein are a body corporate under the name,

- (a) in the case of a city, town, or village, "The..... Roman Catholic Separate School Board" (*inserting the name of the city, town, or village, as the case may be*); or
- (b) in the case of a portion of one or more townships, "The.....Roman Catholic Separate School Board" (*inserting the name selected under clause (2) (c) or by the board and approved by the Minister*). 1974, c. 109, s. 83 (5); 1976, c. 50, s. 15.

(6) Where a meeting is convened to establish a separate In urban municipalities in wards school in an urban municipality that is divided into wards,

unless at such a meeting a motion is passed to elect trustees by wards in accordance with section 91, the trustees shall be elected by general vote.

Formation
not rendered
invalid by
reason only of
vacancy in
office of
trustee

(7) The formation of a separate school is not rendered invalid by reason only of a vacancy in the office of a trustee occurring before the trustees become a body corporate, provided that the vacancy is filled forthwith and the Minister is provided with the information required under clause (2) (e) in respect of the filling of the vacancy.

Roman
Catholic
deemed
separate
school
elector

(8) For the purpose of qualifying to be elected as a trustee at a meeting to establish a separate school zone, a Roman Catholic who is otherwise qualified under subsection 196 (1) is deemed to be a separate school elector. 1974, c. 109, s. 83 (6-8).

New zone in
unorganized
territory

84.—(1) Not fewer than,

(a) ten heads of families; or

(b) where the zone is to be united, effective on the 1st day of January in the following year, with one or more separate school zones to form a combined separate school zone, five heads of families,

being Roman Catholics and being householders or freeholders resident within territory without municipal organization that is not within an area designated by the regulations made under subsection 105 (2) may convene a public meeting of persons desiring to establish a separate school zone therein, and the provisions of subsections 83 (2), (3), (4) and (8) apply with necessary modifications. 1974, c. 109, s. 84 (1).

Corporate
name

(2) On and after the transmission to the Minister of the documents referred to in subsection 83 (4), the separate school zone is established and the trustees named therein are a body corporate under the name of, "The Roman Catholic Separate School Board" (*inserting the name selected under clause 83 (2) (c) or by the board and approved by the Minister*). 1974, c. 109, s. 84 (2); 1976, c. 50, s. 16.

Powers of
trustees

(3) The trustees elected at a meeting convened under subsection (1) have all the powers of a public school board in territory without municipal organization and are in all other respects subject to the provisions of this Act that apply to rural separate school boards.

Where school
not united

(4) Where in any year a separate school zone is established by not fewer than five heads of families under clause (1) (b), the public meeting for the election of trustees shall be held before the 1st day of June in that year, and the only powers and duties of the separate

school board so formed are to proceed in the same year to implement the provisions of section 87, and if the separate school zone is not united with one or more separate school zones to form a combined separate school zone before the 1st day of August in that year under section 87, the board is dissolved on that date. 1974, c. 109, s. 84 (3, 4).

85. A Roman Catholic who is a householder or freeholder and of the full age of eighteen years and who desires to establish a separate school zone under section 83 or 84 is entitled, in the year in which the separate school zone is established, to vote on any matter relating to such separate school if,

Right to vote
in year of
establish-
ment of zone

- (a) in the case of a separate school zone in one or more townships or in territory without municipal organization, he resides in the separate school zone; or
- (b) in the case of an urban municipality, he resides in the municipality. 1974, c. 109, s. 85.

86. On receipt by the Minister of the documents required under section 83 or 84 that a separate school zone has been established and suitable accommodation provided for school purposes, the Minister may pay to the board out of the appropriation made by the Legislature for public and separate schools such sums as may be approved by the Lieutenant Governor in Council. 1974, c. 109, s. 86.

Legislative
grants

87.—(1) A separate school board or five supporters of a separate school that is not within an area designated by the regulations made under subsection 105 (2) may, before the 1st day of July in any year, hold a meeting of the supporters of such separate school to consider the question of uniting the separate school zone with one or more other separate school zones in such area to form a combined separate school zone and, where the majority of such supporters present at each such meeting who vote on the question, vote in favour of the union and of the adjustments referred to in subsection (2), each such board shall give notice of the decision, before the 1st day of August of the same year, to the Minister, the clerks of the municipalities affected, and the appropriate municipal assessors, and the combined separate school zone thus formed shall be deemed to be one zone for all Roman Catholic separate school purposes on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be one zone on the day of nomination for trustees of the combined separate school board.

Formation of
combined
separate
school zones
in non-
designated
areas

(2) In order to adjust the rights and claims of the combining boards, the supporters of any school may offer to assume

Adjustment
of rights

and may assume a differential in rates for a stated period of time.

Dissolution
of boards

(3) When a combined separate school zone is formed, the board of each zone forming part of the union is dissolved, and all the real and personal property vested in such board is vested in the board of the combined separate school zone.

Corporate
name of
trustees

(4) The trustees of a combined separate school board are a corporation by the name of "The.....Combined Roman Catholic Separate School Board" (*inserting the name selected by the board and approved by the Minister*). 1974, c. 109, s. 87.

Detaching
school zone
from
combined
school zone

88.—(1) Where, in an area not designated by the regulations made under subsection 105 (2), a petition of ten heads of families, being householders or freeholders who are supporters of a combined separate school, to detach a separate school zone from the combined separate school zone is submitted in any year to the combined separate school board, the board shall provide for a vote on the question within ninety days of the receipt of the petition.

Qualified
voters detach-
ing a separate
school zone
from a com-
bined separate
school zone

(2) The persons entitled to vote on the question are the supporters of the combined separate school who reside closer to the centre in the portion of the combined separate school zone that it is proposed to detach than any other centre.

When
school zone
detached

(3) If, before the 1st day of July in any year, a majority of the supporters who are entitled to vote on the question vote in favour of detaching the zone it is detached on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be detached on the day of nomination for trustees, and the requisite number of trustees of the separate school zone so detached shall be elected as provided in section 90 or 100, as the case may be.

Adjustment
of assets, etc.

(4) Where a zone or zones is or are detached under this section, subsection 81 (5) applies with necessary modifications, except that the combined separate school board and the board or boards of the zone or zones detached shall each appoint an arbitrator. 1974, c. 109, s. 88.

Dis-
continuing
board by a
vote of the
supporters

89.—(1) In an area not designated by the regulations made under subsection 105 (2), a separate school board or five supporters of such board may, before the 1st day of July in any year, hold a meeting of the separate school supporters to consider the question of discontinuing the separate school board and, where the majority of the supporters vote in favour of discontinuing and

fewer than five supporters vote in opposition, the board shall within thirty days notify the Minister, the clerk of each municipality concerned and the secretary of any school board that may be affected thereby and, for assessment purposes, the zone shall be discontinued on the 30th day of September following the meeting. 1974, c. 109, s. 89 (1).

(2) A separate school board is discontinued on the 30th day of November in any year,

Other conditions under which a separate school board is discontinued

(a) if, for any continuous four month period in a school year, after the year in which the board was established, the board,

(i) fails to operate a school, or

(ii) fails to make an agreement with another separate school board for the education of its pupils and fails to provide transportation for the pupils who would otherwise be excused from attendance under clause 20 (2) (c); or

(b) if no one is assessed as a separate school supporter in the separate school zone in relation to property in respect of which taxes are to be levied in the following year; or

(c) if the supporters fail to elect the required number of trustees in two successive regular elections. 1974, c. 109, s. 89 (2); 1978, c. 44, s. 6.

(3) When a board is discontinued under subsection (2), the appropriate supervisory officer for separate schools shall forthwith notify the Minister, the clerks of the municipalities concerned and the secretaries of the public school boards affected thereby.

Notification of Minister, etc., when board discontinued

(4) The trustees who are in office in the year in which the board is discontinued under this section shall remain in office for the purpose of settling the accounts and outstanding debts of the board and, following an audit by a person licensed by the Ministry of Intergovernmental Affairs as a municipal auditor, shall forward the balance of its funds to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Settling accounts

(5) The records of a board that has been discontinued under this section shall be filed with the Ministry.

Records

Boundaries
to be revised

(6) The boundaries of the zones that are altered as a result of discontinuing a separate school zone shall be revised by the appropriate supervisory officer.

Sale of real
property

(7) Where a board that has been discontinued fails to dispose of its real property in the year in which it was discontinued and the appropriate separate school supervisory officer is notified that an offer to purchase the real property has been made, he shall cause notices to be posted to call a meeting of the persons who were supporters in the year in which the board was discontinued to elect three persons who, when elected, are a board for the purpose of selling the property.

Deposit of
funds from
sale

(8) When the board has sold the real property, it shall, after paying any outstanding debts, forward the balance of the money received from the sale to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Re-establish-
ing a board

(9) A separate school board that has been discontinued in any year may, in any subsequent year, be re-established in the manner provided in section 83 or 84, and the funds that were deposited by the board that was discontinued shall be returned to the board. 1974, c. 109, s. 89 (3-9).

Urban Separate Schools

Election of
trustees in
urban munic-
ipalities by
general vote

90.—(1) Except as provided in section 91, the trustees of an urban separate school board shall be elected by general vote for a term of two years.

Number of
trustees

(2) The number of trustees on an urban separate school board shall be determined by the population of the municipality as follows, where the population was,

(a) less than 10,000, six trustees;

(b) 10,000 or more but less than 50,000, eight trustees;

(c) 50,000 or more but less than 100,000, ten trustees;

(d) 100,000 or more, twelve trustees.

Change in
number of
trustees

(3) Where it becomes evident from the census of a municipality that the number of trustees on an urban separate school board should be increased or decreased, at the next election

of trustees the proper number of trustees shall be elected. 1974, c. 109, s. 90.

91.—(1) An urban separate school board for an urban municipality that is divided into wards may be composed of two trustees for each ward, elected by the separate school electors of that ward for a term of two years. Urban municipality divided into wards

(2) An urban separate school board for an urban municipality that is divided into five or more wards may be composed of one trustee for each ward, elected by the separate school electors of that ward for a term of two years. Where five or more wards

(3) The composition and election of an urban separate school board that is elected as provided in subsection (1) or (2) may be changed to that provided in section 90. 1974, c. 109, s. 91. Change from election by wards to general vote

92.—(1) The composition and election of an urban separate school board for an urban municipality that is divided into wards may be changed from the composition and election mentioned in any one of the subsections in section 91 to that provided in any other subsection in that section, provided that the resolution of the board for a change has been submitted to the electors of the separate schools of the urban municipality and has received the affirmative vote of a majority of the electors who voted on the resolution. Method of changing composition and election of board

(2) At the election following an affirmative vote of a majority of the separate school electors who voted on the resolution, the proper number of trustees shall be elected, and the trustees then in office shall continue in office until their successors are elected and the new board is organized. Election of new board after change

(3) A change in the method of election of an urban separate school board may not be made unless the board has been elected by the existing method for at least the two preceding regular elections. 1974, c. 109, s. 92. Limitation on changing method of election

93.—(1) The election of trustees of an urban separate school board shall be conducted in the same manner as municipal elections. Conduct of elections

(2) In urban municipalities every person who is a separate school elector is entitled to vote at the election of trustees of the separate schools. 1974, c. 109, s. 93. Election of trustees, who may vote

94. The *Municipal Elections Act* applies with necessary modifications to the election of trustees of an urban separate school board, except that the oath to be taken by a voter shall be: Application and form of oath R.S.O. 1980, c. 308

You swear that you are the person named (*or intended to be named*) in the list of voters now shown to you (*showing the list to the voter*);

That you are of the full age of eighteen years;

That you are a Roman Catholic separate school elector;

That you have not voted before at this election;

That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;

So help you God.

1974, c. 109, s. 94; 1978, c. 44, s. 25.

Residents
other than
supporters
entitled to
vote

1953, c. 119
R.S.O. 1980,
c. 308

95. Notwithstanding the provisions of this or any other Act, including *The Metropolitan Separate School Board Act, 1953*, a Roman Catholic who is not an owner or tenant as defined in the *Municipal Elections Act* but who,

(a) is a Canadian citizen or other British subject;

(b) is of the full age of eighteen years; and

(c) resides within a separate school zone,

and who wishes to be a separate school elector at an election may cause his name to be entered on the preliminary list of electors of the polling subdivision in which he resides as a separate school elector, and for such purpose is entitled to be enumerated as such and to have entered opposite his name on the preliminary list of electors for the polling subdivision in which he resides that he is a separate school elector and, where the name of such person appears on the polling list, he shall be deemed to be a separate school elector for the purpose of voting at such election. 1974, c. 109, s. 95; 1978, c. 44, s. 25.

Where person
residing out
of urban
municipality
to vote

96. When a supporter of a separate school in an urban municipality resides outside the municipality, he is entitled to vote in the ward or polling subdivision in which the separate school nearest to his residence is situate. 1974, c. 109, s. 96.

Rural Separate Schools

Trustees
term of office

97.—(1) The board of a rural separate school shall consist of three trustees who, subject to subsection (3), shall be

elected in the year 1974 and in every second year thereafter and shall hold office for two years. 1974, c. 109, s. 97 (1).

(2) The term of office of trustees of a rural separate school board elected in the year 1978 and in regular elections thereafter shall commence on the 1st day of December in the election year. 1978, c. 44, s. 7.

Term of office

(3) Where the first election of a newly-established board is held in 1975 or in any second year thereafter, the trustees elected in such year shall hold office for one year.

Where first election held in 1975

(4) A majority of the trustees is a quorum, and the board shall be organized by the election of a chairman and by the appointment of a secretary and a treasurer or of a secretary-treasurer.

Organization and quorum

(5) No act or proceeding is valid that is not adopted at a regular or special meeting of the board of which notice has been given as required under section 98 and at which at least two trustees are present.

Regularity

(6) Every householder or freeholder of the full age of eighteen years, who is a Canadian citizen or other British subject and who is a supporter of a rural separate school, is entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of the school. 1974, c. 109, s. 97 (2-6).

Electors, qualifications

(7) Every person who is a Roman Catholic and is the spouse of a supporter of a rural separate school who is entitled to vote under subsection (6), and where elections are held under the *Municipal Elections Act*, every person who is a separate school elector in the area of jurisdiction of the board of such school, is entitled to vote at the election of trustees of such school and on any question submitted to a meeting of the supporters, except a question involving the selection of a school site or an expenditure for a permanent improvement. 1974, c. 109, s. 97 (7); 1978, c. 44, s. 25.

Idem

R.S.O. 1980, c. 308

98.—(1) It is the duty of every rural separate school board and it has power,

Duties of rural boards:

(a) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for,

time and place of meetings

(i) filling any vacancy in the board,

(ii) the selection of a new school site,

(iii) the appointment of a school auditor, or

(iv) any other school purpose,

and to cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting;

annual report

(b) to cause to be prepared and read at the annual school meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school moneys during such year, and signed by the chairman and by one or both of the school auditors.

Appointment
of auditor by
the Minister

(2) Where a rural separate school board neglects or the supporters at an annual or special meeting neglect to appoint an auditor, or an auditor appointed refuses or is unable to act, the Minister, upon the request in writing of any five supporters of the school, may make the appointment. 1974, c. 109, s. 98.

Appointment
of collector

99.—(1) A separate school board in territory without municipal organization may appoint a person, who may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums that the inhabitants or others have subscribed or a rate-bill imposed upon any person and may pay to the collector at the rate of not less than 5 and not more than 10 per cent on the money collected by him, and every collector shall give such security as may be required by the board.

Powers and
duties of
collectors

(2) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township and subsections 67 (6), (7), (8), (9) and (10) apply with necessary modifications. 1974, c. 109, s. 99.

Annual
meeting

100.—(1) An annual meeting of the supporters of a rural separate school shall be held on the last Wednesday in December or, if that day is a holiday, on the next day following, commencing at the hour of 10 o'clock in the forenoon, or if the board by resolution so directs, at the hour of 1 o'clock or 8 o'clock in the afternoon, at such place as the board by resolution determines or, in the absence of such resolution, at

the separate school. 1974, c. 109, s. 100 (1); 1978, c. 44, s. 8 (1).

(2) A rural separate school board shall be elected at a meeting of the separate school supporters held on the second Monday in November or, where that day is Remembrance Day, on the next succeeding day, in the year of a municipal election at a time and place selected by the board. 1978, c. 44, s. 8 (2).

Election
of
board

(3) Where the annual meeting of supporters of the school cannot conveniently be held as provided for in subsection (1), the supporters, at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting, which shall be held on that day in each year thereafter until some other day is similarly named. 1974, c. 109, s. 100 (2).

Idem

(4) The supporters of the school present at a meeting shall elect one of themselves to preside over its proceedings and shall also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this section. 1974, c. 109, s. 100 (3); 1978, c. 44, s. 8 (3).

Organization
of meeting

(5) The business of the annual meeting may be conducted in the following order,

Order of
business

- (a) receiving and dealing with the annual report of the trustees;
- (b) receiving and dealing with the annual report of the auditors;
- (c) appointing one or more auditors for the current year;
- (d) electing a trustee or trustees to fill any vacancy or vacancies; and
- (e) miscellaneous business. 1974, c. 109, s. 100 (4); 1978, c. 44, s. 8 (4).

(6) The presiding officer shall submit all motions to the meeting in the manner desired by the majority, and is entitled to vote on any motion, and,

Duties of
presiding
officer

- (a) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(b) in the case of an equality of votes on a motion, the motion is lost.

Granting poll
and pro-
ceedings in
case of a poll

(7) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee, the presiding officer shall forthwith grant the poll.

Entries in poll
book

(8) Where a poll is granted, the secretary shall enter in a poll book the name and residence of each qualified supporter of the school offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper.

Form of
ballot paper

(9) Ballot papers shall be pieces of plain white paper of uniform size.

Marking of
ballot paper

(10) A voter shall mark his ballot,

(a) in the election of a trustee, by marking the name of the trustee thereon; and

(b) on a question, by marking the word "for" or "against" thereon.

Manner of
voting

(11) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose that is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container that has been placed and is kept upon a table for the purpose.

Appointment
of scrutineer

(12) Every candidate may appoint a person to act as his scrutineer during the election. 1974, c. 109, s. 100 (5-11).

Declaration
where right
to vote
objected to

(13) When an objection is made to the right of a person to vote at a meeting of the supporters of a rural separate school, either for trustee or upon a school question, the presiding officer shall require the person whose right to vote is objected to make the following declaration, whereupon the person making the declaration is entitled to vote:

I,, declare,

(a) that I am a Roman Catholic and a householder or freeholder assessed to the support of; or
(insert name of board)

- (b) that I am a Roman Catholic and the spouse of a supporter of; and
(insert name of board)
- (c) that I am of the full age of eighteen years; and
- (d) that as such supporter or spouse of a supporter I have the right to vote at this meeting.

1974, c. 109, s. 100 (12); 1978, c. 44, s. 8 (5).

(14) The poll shall not close before noon, but shall close at any time thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than 4 o'clock in the afternoon. 1974, c. 109, s. 100 (13). When poll shall close

(15) When a meeting for the election of one or more trustees is held at 8 o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at 10 o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded. 1974, c. 109, s. 100 (14); 1978, c. 44, s. 8 (6). Polling at afternoon meetings

(16) When the poll is closed, the presiding officer and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and, Counting votes, tie vote

(a) in the case of an equality of votes with respect to the election of two or more candidates, the presiding officer shall provide for drawing lots to determine which of the candidates is elected; and

(b) in the case of an equality of votes on a motion, the motion is lost.

(17) In the case of an election of trustees, the presiding officer shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a motion he shall declare it carried or lost as the majority of votes is in favour of or against the motion. Declaration of result

(18) A statement of the result of the vote shall be certified by the presiding officer and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered to each candidate. Statement of result of poll

(19) A correct copy of the minutes of every meeting, signed by the presiding officer and secretary of the meeting, shall be transmitted forthwith by the secretary to the Ministry. Secretary to transmit minutes to Ministry

Meetings
called in
default of
first or annual
meeting

(20) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time, the appropriate separate school supervisory officer or any two supporters of the school may call a meeting by giving six days notice posted in at least three of the most public places in the locality in which the school is situate.

Validity
of election

(21) No election under this section is invalid by reason of non-compliance with the provisions of this section as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of forms, or of any irregularity, if it appears that the election was conducted in accordance with the principles laid down in this section, and that the non-compliance or mistake or irregularity did not affect the result of the election. 1974, c. 109, s. 100 (15-20).

Where
municipality
may conduct
election

101. Notwithstanding section 100, where the centre of a rural separate school zone is in a municipality, the board of the rural separate school may, by resolution passed before the 1st day of July in the year of an election and approved at a meeting of the supporters of the rural separate school, determine that the election of trustees of the board shall be conducted by the municipality under the *Municipal Elections Act*, and the trustees shall be elected by general vote of the separate school electors of the separate school zone. 1978, c. 44, s. 9.

R.S.O. 1980,
c. 308

Separate Schools—General

Returning
officer

102. Where territory without municipal organization is,

- (a) within a rural or an urban separate school zone whose centre is in a municipality; or
- (b) within a combined separate school zone, a centre of which is in a municipality,

and the election of trustees of the board for such zone is conducted under the *Municipal Elections Act*, the secretary of the board shall be the returning officer and shall perform all the duties of a municipal clerk in the election for the territory without municipal organization and he shall report forthwith the vote recorded in the territory to the returning officer for the municipality in which the centre of the zone is situated and the returning officer shall prepare the final summary and announce the result of the vote. 1978, c. 44, s. 10.

Combined Separate Schools

103.—(1) Where a combined separate school zone is formed or where another separate school zone is added to or detached from a combined separate school zone, the trustees in office shall retire on the 1st day of December following the election of trustees of the combined separate school zone and, subject to subsection (5), five trustees shall be elected by the supporters of the newly-created or altered combined separate school zone as provided in section 100, who shall hold office for two years and otherwise the provisions of section 97 apply. 1974, c. 109, s. 101 (1); 1978, c. 44, s. 11 (1). Trustees

(2) Every trustee shall continue in office until his successor has been elected and the new board is organized. 1974, c. 109, s. 101 (2). Trustee in office until organization of new board

(3) For the purpose of electing the first trustees for a combined separate school zone, the boards of the separate schools forming the combined separate school zone shall, before the 1st day of September, each appoint a person to a committee, which shall arrange for the election of trustees in accordance with section 93 or 100, as the case may be. 1974, c. 109, s. 101 (3); 1978, c. 44, s. 11 (2). First trustees

(4) Where a combined separate school zone includes one or more urban municipalities, the board shall be composed of the same number of trustees as the separate school board of the urban municipality having the greatest population would have under section 90 and the board shall be deemed to be an urban board and the zone shall be deemed to be an urban combined separate school zone. Trustees in combined separate school zone including urban municipality

(5) Notwithstanding subsections (1) and (4), the board of a combined separate school zone may be composed of such number of trustees, not fewer than five or more than nine, representing such municipalities or parts thereof, or separate school zones in territory without municipal organization, within the combined separate school zone as is provided for in a resolution passed by the board, or, in the case of a newly-formed combined separate school zone, by the committee formed under subsection (3), and the board of the combined separate school zone shall be deemed to be an urban separate school board. Resolution providing for trustees

(6) Where a resolution is passed under subsection (5), the trustees shall be elected at large in the areas within the combined separate school zone that they respectively represent, and sections 93, 94 and 95 apply with necessary modifications, provided that, where a municipality is divided into wards, the resolution may provide for representation by wards. Election and term of office

Voters list
for areas in
combined
zone

(7) Where one or more trustees represent two or more municipalities or parts thereof, or two or more municipalities or parts thereof and one or more separate school zones in territory without municipal organization, and the election is conducted under section 93, the provisions of subsection 113 (21) apply with necessary modifications.

Copy of
resolution to
be sent to
Minister

(8) The board or committee that passes a resolution under subsection (5) shall forthwith send a copy thereof to the Minister.

Electors'
qualifica-
tions, urban
combined
separate
school zone

(9) Every person,

- (a) who resides in an urban municipality in an urban combined separate school zone and is entitled to vote at the election of trustees under section 94; or
- (b) who resides in a township or territory without municipal organization in an urban combined separate school zone and would be entitled to vote at the election of trustees under section 97 if the combined separate school zone were a rural separate school zone,

is entitled to vote at the election of trustees of the combined separate school zone and on any school question.

Electors'
qualifica-
tions, rural
combined
separate
school zone

(10) Every person who resides in a rural combined separate school zone and is entitled to vote at the election of trustees under section 97 is entitled to vote at the election of trustees of the combined separate school zone and, subject to subsection 97 (7), on any school question. 1974, c. 109, s. 101 (4-10).

Duties and Powers of Separate School Boards

Duties of
board:

104.—(1) It is the duty of a separate school board and it has power,

appointment
of officers

- (a) to appoint, where required, one or more collectors of school fees or rate-bills, who may be members of the board, and who shall discharge all duties, have powers similar to those of like officers of a municipality, and be subject to the obligations of and the penalties applicable to such officers;

collection of
rates

- (b) where the board does not appoint a collector, to apply to the municipal council, on or before the 1st day of March in each year, for the levying and collecting of all rates for the support of their schools, and for any other school purposes authorized by this Act

to be collected from the supporters of the separate schools under the control of the board;

(c) to appoint an auditor or auditors; appointment
of auditors

(d) to lay all the accounts of the board before the auditors, accounts
together with the agreements, vouchers, contracts
and books in its possession, and to afford the auditors
all the information in its power as to the receipt and
expenditure of school money; and

(e) to exercise all such other powers and perform all other powers
and duties
such other duties of boards as are applicable to
public school boards, except where otherwise expressly
provided in this Act. 1974, c. 109, s. 102 (1);
1976, c. 50, s. 17.

(2) A separate school board may establish and maintain Religious
education
programs and courses of study in religious education for pupils
in all schools under its jurisdiction. 1974, c. 109, s. 102 (2).

*County and District Combined Roman Catholic
Separate School Zones*

105.—(1) The separate school zones and the former separate County and
district com-
bined
separate
school
zones
school zones that form all or part of a combined separate school
zone whose centres are within an area designated by the regula-
tions made under subsection (2) are united to form a county or
district combined separate school zone, as the case may be.

(2) The Lieutenant Governor in Council may make regu- Regulations
lations,

(a) designating areas in Ontario in which the separate
school zones whose centres are within the areas are
to be united to form county or district combined
separate school zones and designating the names of
the areas;

(b) altering the boundaries of any such area;

(c) respecting any matter necessary or advisable to carry
out effectively the intent and purpose of sections 105
to 118. 1974, c. 109, s. 103 (1, 2).

(3) Where an area that is designated under clause (2) (a) Dissolution
of board
includes the centre of an existing separate school zone, the board

of such zone is dissolved effective upon such date as may be set out in the regulation designating the area. 1976, c. 50, s. 18 (1).

Establish-
ment of
boards

(4) A separate school board shall be established for each county and district combined separate school zone, and except where otherwise provided under section 106, the trustees of the board shall be elected and the board organized in accordance with sections 113 to 115. 1976, c. 50, s. 18 (2).

Separate
school zones

(5) Where the centre of a separate school zone is within an area designated by the regulations made under subsection (2), the separate school zone shall forthwith become a part of the county or district combined separate school zone in that area. 1974, c. 109, s. 103 (4), *revised*.

Designation
of a
combined
separate
school
board as
a district
combined
separate
school
board

106.—(1) Where the board of a combined separate school zone in the territorial districts applies to the Minister to have the zone made a district combined separate school zone and the board become a district combined separate school board, the Lieutenant Governor in Council on the recommendation of the Minister may, by regulation, designate such zone as a district combined separate school zone, and upon such designation,

- (a) the board of the combined separate school zone is dissolved and a separate school board for the district combined separate school zone is established, composed of the trustees of the board of the combined separate school zone who shall remain in office as trustees of the board of the district combined separate school zone until the board is organized following the next regular election of trustees;
- (b) all property, including the employment contracts of the employees, of the combined separate school board becomes vested in the district combined separate school board; and
- (c) all debts, contracts, agreements and liabilities of the combined separate school board become obligations of the district combined separate school board,

and except as provided by or under this section, the provisions of this Act shall apply in respect of the district combined separate school board and the zone designated under this section as if the designation of the zone and the formation of the board had been made under section 105.

(2) For the purpose of an election of trustees of a district combined separate school board established under subsection (1), the Lieutenant Governor in Council may, by regulation, exempt the district combined separate school board from the provisions of subsections 113 (2) to (18) and provide for the number of trustees to be elected to the board and the city, district municipality or district municipalities to be represented by each trustee. 1976, c. 50, s. 19.

Trustee
repre-
sentation

107.—(1) Not fewer than five heads of families, being Roman Catholics and being householders or freeholders resident within a 9.6 kilometre square area in an area designated by the regulations made under subsection 105 (2), may convene a public meeting of persons desiring to establish a separate school zone with its centre therein. 1974, c. 109, s. 104 (1); 1978, c. 87, s. 15 (6).

Meeting to
establish
separate
school zone in
designated
area

(2) Where such a meeting is held, the persons present shall, Procedure

- (a) elect a chairman and a secretary for the meeting;
- (b) pass a motion determining the centre of the separate school zone to be established; and
- (c) require the chairman of the meeting to send a copy of the motion to,
 - (i) the Minister,
 - (ii) the secretary of the county or district combined separate school board,
 - (iii) the secretary of the divisional board of education affected, and
 - (iv) the appropriate assessment commissioner,

and on and after the transmission to the Minister of a copy of the notice calling the meeting, a copy of the motion, and evidence that the persons required to be notified under clause (c) have been so notified, the separate school zone is established and becomes a part of the county or district combined separate school zone.

(3) No trustees shall be elected at the meeting. 1974, c. 109, s. 104 (2, 3).

Trustees not
elected at
meeting

108. Where a county or district combined separate school board acquires a site under subsection 171 (3) and operates a school on such site, a separate school zone having its centre as

Zone deemed
formed

provided in subsection 80 (2) is deemed to have been established under subsection 107 (2) on the date on which final approval in respect of the construction or purchase of the school is given by the Minister for the purposes of legislative grant. 1974, c. 109, s. 105.

Arbitration
where
boundaries
of designated
areas are
altered

109.—(1) Where the boundaries of an area designated by the regulations under subsection 105 (2) are altered to include,

- (a) one or more separate school zones established under section 83; or
- (b) part or all of one or more separate school zones that form part or all of another county or district combined separate school zone,

each of the boards concerned shall appoint one arbitrator who, subject to subsection (2), shall forthwith value and adjust in an equitable manner the assets and liabilities of the boards affected by the alteration of the boundaries and the decision of the arbitrators is final and binding upon the boards concerned.

Appointment
of additional
arbitrator

(2) Where the number of arbitrators appointed under subsection (1) is an even number, the arbitrators so appointed shall appoint an additional arbitrator.

Referral to
judge

(3) Where a majority of the arbitrators appointed under subsections (1) and (2) is unable to reach a decision on any matter, such matter shall be referred by the arbitrators to the judge whose decision is final. 1974, c. 109, s. 106.

Alteration of
boundaries;
disposition of
assets and
liabilities

110.—(1) Where the boundaries of an area designated by the regulations under subsection 105 (2) are altered, all lands and premises that,

- (a) are situate in a municipality or part thereof or territory without municipal organization that is added to the designated area by such alteration;
- (b) are used as separate schools on the last school day preceding the effective date of such alteration; and
- (c) immediately prior to the effective date of such alteration are vested in a separate school board,

shall, on and after such effective date, be vested without compensation, but subject to all existing debts, contracts, agreements and liabilities that pertain to such lands and

premises, in the county or district combined separate school board for the designated area to which the municipality or part thereof or territory without municipal organization is added, and the separate school boards concerned shall agree upon the disposition of all other property situate upon, or used in connection with, such lands and premises.

(2) Any dispute as to the disposition of property under subsection (1) may be referred by one or more of the boards concerned to the Ontario Municipal Board, which shall determine the matters in dispute and its decision is final. Dispute

(3) The employment contract of every employee of a separate school board who, immediately before the effective date of the alteration of the boundaries of an area designated by the regulations under subsection 105 (2) was required to perform his duties in a separate school that is vested under subsection (1) in the county or district combined separate school board for such designated area becomes an obligation of such county or district combined separate school board. Employment contracts

(4) Subject to subsection (8), where one or more municipalities are detached from an area designated by the regulations under subsection 105 (2) and attached to an adjoining designated area and one trustee of the county or district combined separate school board for the designated area from which the municipality or municipalities are detached resides in one such municipality and was elected by the separate school electors of such municipality, whether or not the municipality was combined with one or more other municipalities for election purposes, such trustee shall, on the effective date of the attaching of the municipality or municipalities cease to be a trustee of the separate school board to which he was elected and shall on such date and for the remainder of his term of office be deemed, Transfer of trustee

(a) to have been elected by separate school electors of the county or district combined separate school board for the designated area to which the municipality in which he resides is attached; and

(b) to represent on such board the separate school electors of the municipality in which he resides and of the other municipality or municipalities, if any, that were combined therewith for election purposes under subsection 113 (8) at the time of his election and that are also attached to such designated area,

and for such period the municipality or combined municipalities so attached shall be deemed to have been determined under sub-

section 113 (8) as a municipality or combination of municipalities, as the case may be, to be represented by one trustee.

Number of
trustees
reduced

(5) Where one or more municipalities are detached from an area designated by the regulations under subsection 105 (2) and the number of trustees of the county or district combined separate school board for such area is reduced pursuant to subsection (4), for the remainder of the term of the board the number of trustees who remain on the board shall be deemed to be the number determined under subsection 113 (2).

Trustee to
represent
transferred
area

(6) Subject to subsection (8), where a municipality or part thereof or territory without municipal organization is detached from an area designated by the regulations under subsection 105 (2) and attached to an adjoining designated area or area of jurisdiction of an urban separate school board, on the effective date thereof and for the remainder of the term of office of the separate school board for the area that is enlarged, the separate school electors in such municipality or part or territory without municipal organization shall be represented by the trustee or trustees of the separate school board last elected in,

- (a) the municipality, combination of municipalities or part or parts thereof or territory without municipal organization in the designated area; or
- (b) the ward established for election of one or more trustees of the urban separate school board,

that adjoins such attached municipality or part or territory without municipal organization, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection (4).

Determina-
tion of trustee
representa-
tion by
enlarged
board

(7) Subject to subsection (8), where a municipality or part thereof or territory without municipal organization that is attached to a designated area adjoins two or more municipalities in the designated area that are not combined for the purpose of electing one or more trustees, the county or district combined separate school board for the area that is enlarged shall, by resolution, determine the trustee or trustees who, for the remainder of the term of office of the board, shall represent the municipality or part or territory without municipal organization that is attached to the designated area, but this subsection does not apply to the municipality or municipalities that will be represented by a trustee by virtue of subsection (4).

Application of
subss. (4, 6, 7)

(8) Subsections (4), (6) and (7) do not apply where a regular election of the board is to be held before the effective date on which

the municipality or municipalities or part or parts thereof or territory without municipal organization is attached.

(9) The area added to the Borough of Scarborough by subsection 150 (2) of the *Municipality of Metropolitan Toronto Act* is part of the district of which the separate schools are administered by The Metropolitan Separate School Board. 1974, c. 109, s. 107.

Area added to Scarborough to be under Metropolitan Separate School Board
R.S.O. 1980, c. 314

111.—(1) A county combined separate school board that has jurisdiction in an area that includes only one county is a corporation by the name of “The..... County Roman Catholic Separate School Board” (*inserting the name of the county*).

Name of board in one county

(2) A county combined separate school board that has jurisdiction in an area that includes two or more counties, or one county and a defined city is a corporation by the name of “The.....County Roman Catholic Separate School Board” (*inserting the names of the counties, the name of the city and of the county or a name selected by the board and approved by the Minister*).

Name of county combined board

(3) A district combined separate school board that has jurisdiction in the territorial districts is a corporation by the name of “The.....Roman Catholic Separate School Board” (*inserting the name of the area designated by the regulations*).

Name of board in territorial districts

(4) Notwithstanding subsections (2) and (3) and except as provided in sections 117 and 118, a combined separate school board that has jurisdiction in all or part of a regional municipality is a corporation by the name of “The..... Roman Catholic Separate School Board” (*inserting a name selected by the board and approved by the Minister*). 1974, c. 109, s. 108.

Name of board in regional municipality

112.—(1) For district combined separate school purposes, every separate school zone that comprises only territory without municipal organization and whose centre is in an area designated by the regulations made under subsection 105 (2), and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under subsection 105 (2), shall be deemed to be a district municipality.

Territory without municipal organization in zones deemed district municipalities

(2) The board of a district combined separate school zone that includes territory without municipal organization that is deemed a district municipality for separate school purposes shall exercise the powers and duties of a municipal council for such district municipality in respect of preparing estimates,

Powers and duties of combined board re territory without municipal organization

levying rates, collecting taxes and issuing debentures for the purposes of the district combined separate school board and in respect of the preparation of a list of voters and the election of members of such board, and all the officers appointed by such board have the same powers and duties as similar officers in an organized municipality except that the provisions of subsections 67 (5) to (11) apply with necessary modifications, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be raised by a levy imposed by the district combined separate school board on all property rateable for separate school purposes in such district municipality.

Duties of
secretary of
board re
school
support

(3) In respect of territory without municipal organization referred to in subsection (2) that is part of a school division, the secretary of the board of the school division shall exercise the powers and perform the duties of the clerk of a municipality under subsections 374 (3) to (14) of the *Municipal Act* for the purposes of the district combined separate school board. 1974, c. 109, s. 109 (1-3).

R.S.O. 1980,
c. 302

Election in
improvement
district

(4) The secretary-treasurer of an improvement district that forms part of a district combined separate school zone, in each year in which an election for members of the district combined separate school board is to be held, shall provide for such election in the improvement district in the same manner as for the election of trustees in a municipality, and the secretary-treasurer of the improvement district shall be the clerk and returning officer and has all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the election of members of a district combined separate school board under the *Municipal Elections Act*. 1974, c. 109, s. 109 (4); 1978, c. 44, s. 25.

R.S.O. 1980,
c. 308

Interpre-
tation

113.—(1) In this section,

(a) “equalized residential and farm assessment” means the residential and farm assessment referred to in clause (b), as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister;

(b) “residential and farm assessment” means the residential and farm assessment upon which taxes are levied in the year in which a determination is made or the year in which nominations are held, as the case may be.

Composition
of board

(2) Subject to subsection (4) and except where otherwise expressly provided, the number of trustees of a combined separate school board shall be determined by the population

of the county or counties or of the area municipalities in a regional municipality in the county combined separate school zone, and the number of trustees of a district combined separate school board shall be determined by the population of the municipalities all or part of which are included in the district combined separate school zone, as the case may be, as follows, where the population is,

- (a) less than 25,000, eight trustees;
- (b) 25,000 or more but less than 45,000, ten trustees;
- (c) 45,000 or more but less than 100,000, twelve trustees;
- (d) 100,000 or more but less than 200,000, fourteen trustees;
- (e) 200,000 or more, sixteen trustees.

(3) Where it becomes evident from the population of the county or counties in a county combined separate school zone or of the municipalities all or part of which are in a district combined separate school zone that the number of trustees of the board should be increased or decreased in accordance with subsection (2), at the next regular election of trustees the proper number of trustees shall be elected.

Change in
numbers of
trustees

(4) In a county or district combined separate school zone, the number of trustees to be elected by the separate school electors,

Number of
trustees to be
elected in a
combined
zone

- (a) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of trustees determined under subsection (2) by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the city to the equalized residential and farm assessment of all the property rateable for separate school purposes in the county or district combined separate school zone; and
- (b) of the county or district municipalities or the parts thereof shall be the number of trustees determined under subsection (2) less the total number of trustees, determined under clause (a) for the city or cities, but in no case shall the number of trustees to be elected under this clause be fewer than one.

Determina-
tion under
subs. (4),
who to make

(5) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, or where there is no organized district municipality in the district combined separate school zone, the clerk of the city, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone, shall make the determination required under subsections (2), (3) and (4), and shall, before the 1st day of September in the year of the determination, send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board, a copy of the determination. 1974, c. 109, s. 110 (1-5).

When
determina-
tion to be
made

(6) Before the 1st day of September in the year in which an election is to be held, a determination shall be made under subsection (4),

(a) if it is determined under subsection (3) that the number of members of the county or district combined separate school board should be increased or decreased or if the boundaries of the county or district combined separate school zone have been altered, or are to be altered, effective on or before the 1st day of January next following the election;

(b) if,

(i) the boundaries of one or more cities within the county or district combined separate school zone have been altered or a new city has been erected in the county or district combined separate school zone subsequent to the latest determination made under subsection (4) that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the county or district combined separate school zone are to be altered or a new city is to be erected effective on or before the 1st day of January next following the election; and

(c) in every fourth year following the latest determination under subsection (4),

and, subject to subsection (15), a determination made under subsection (4) is effective until a new determination is required in

accordance with this subsection. 1974, c. 109, s. 110 (6); 1978, c. 44, s. 12 (1, 2).

(7) Where a city is not entitled to one or more trustees under clause (4) (a), the city shall be deemed to be a county or district municipality for the purposes of subsection (4) or (8), and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection (8).

Where a city does not qualify for at least one trustee

(8) With respect to the county municipalities in a county combined separate school zone and the district municipalities in a district combined separate school zone, the clerks of the three county municipalities or the clerks of the three organized district municipalities, as the case may be, having successively the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, and where there are fewer than three organized district municipalities in the district combined separate school zone, the clerks of all such municipalities, shall determine, before the 1st day of September in each year in which,

Distribution of trustees to be elected in county or district municipalities in combined zone

(a) a determination is made in accordance with subsection (6); or

(b) an election is to be held and the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under this subsection, or are to be altered effective on or before the 1st day of January next following the election,

the county or district municipality or municipalities to be represented by each trustee to be elected in the county or district municipalities in the combined separate school zone, but in no case where two or more trustees are to be elected in the county or district municipalities shall the determination under this subsection provide for a trustee to be elected by a general vote of all the separate school electors of the county or district municipalities, and such determination is effective until a new determination is required under this subsection.

(9) Where two or more county municipalities that are not in a regional municipality are combined under subsection (8) for the election of two or more trustees and one of the combined municipalities has a population in excess of 75,000, the clerks of such combined municipalities may, before the 15th day of September in any year in which a determination is made under subsection (8), determine that a portion of a county municipality that is so combined be attached to one

Distribution of members within combined municipalities

or more of the other county municipalities in the combination of municipalities for the election of one or two trustees and, where the clerks of such combined municipalities so determine,

- (a) the number of trustees to be elected in the combined municipalities shall be apportioned among the combined areas formed under this subsection and the remainder, if any, of the county municipality, as nearly as is practicable in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in each such combined area and in the remainder, if any, of the county municipality, bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities; and
- (b) where the remainder of the county municipality is to be represented by two or more trustees, subsections (17) and (18) apply with necessary modifications in respect of such remainder.

Appeal from
determina-
tion under
subs. (9)

(10) Where the determination made under subsection (9) apportions to a combined area or to the remainder of a county municipality a percentage of the total number of trustees to be elected in the combined municipalities as determined under subsection (8) that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the combined area or in the remainder of the county municipality, as the case may be, is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the combined municipalities, the council of a municipality all or part of which is in the combined area or part of which forms such remainder, as the case may be, may, within fifteen days after notice of such determination has been sent, appeal the determination to the judge who shall either reapportion the number of trustees in accordance with clause (9) (a) or, where he determines that the determination was made in accordance with such clause, confirm the determination, and his decision is final.

Where judge
to make
determina-
tion

(11) Where the determination under subsection (8) is not made before the 1st day of September, the clerk of the county municipality or of the district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, shall refer the matter to the judge, who shall make the determination before the 1st day of October in accordance with subsection (13), and his decision is final.

(12) Where the separate school zones in two or more counties are combined to form a county combined separate school zone, and where the three clerks designated under subsection (8) do not include a clerk from each county in the county combined separate school zone, the clerk of the county municipality having the greatest equalized residential and farm assessment for separate school purposes in each such county not so represented shall act together with the clerks designated under subsection (8).

Municipal clerk from each county to be on committee under subs. (8)

(13) In determining under subsection (8),

Determination

- (a) the number of trustees to be elected by the separate school electors of a county or district municipality; or
- (b) the county or district municipalities that are to be combined for the election of one or more trustees by the separate school electors of such municipalities,

the clerks of the county or district municipalities, as the case may be, shall apportion the number of trustees determined for a combined separate school zone under clause (4) (b), as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone in the county or district municipalities in such zone, and shall, in so far as it is practicable to do so, combine municipalities that are adjoining.

(14) Where the determination made by the clerks of the county or district municipalities under subsection (8) allots to a municipality or to a combination of municipalities a percentage of the total number of trustees to be elected by the separate school electors of all the county or district municipalities in the combined separate school zone that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone, the council of the municipality or the council of any municipality in such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been mailed, appeal the determination to the judge who, before the 1st day of October, shall either reappor-

Appeal from determination

tion the number of trustees in accordance with subsection (13) or, where he determines that the determination was made in accordance with subsection (13), confirm the determination, and his decision is final.

Request by
clerk for
information

(15) On the request of the clerk of the county municipality or the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a combined separate school zone, the clerk of each city and of each county or district municipality and the secretary of the county or district combined separate school board shall provide the clerk of such county municipality or organized district municipality with the information required to make any determination under this section.

Mailing of
determina-
tion under
subss. (8, 14)

(16) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone shall send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board,

(a) before the 1st day of September in each year in which it is determined under subsection (3) that the number of trustees of the board should be increased or decreased or in which a determination is made under subsection (8), a copy of the determination made under subsection (8); and

(b) before the 1st day of October in each year in which a determination is made by the judge under subsection (11) or (14) a copy of the determination.

Appeal and
decisions of
judge

(17) The council of any municipality concerned and a district combined separate school board on behalf of any territory without municipal organization may, within ten days of the mailing of the determination made under subsection (4), appeal to the judge with respect to the accuracy of the determination, and the judge shall either vary or confirm the determination, and his decision is final, and the clerk of the county or district municipality responsible under subsection (5) for making such determination shall make the changes required by the judge and shall send a copy of the decision by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board.

(18) Where the council of a municipality, or a county or district combined separate school board on behalf of any territory without municipal organization that is deemed a district municipality, after the period for an appeal under this section, and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a combined separate school zone was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection (14) or (17), shall apply to the election next following such determination, and the board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition. 1974, c. 109, s. 110 (7-18).

New
determina-
tion where
former
determina-
tion improper

(19) The number of trustees of a county or district combined separate school board to be elected in a municipality shall be elected by a general vote of the separate school electors of such board in the municipality, provided that, where the number of trustees to be elected to the board by the separate school electors in the municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such trustees by the separate school electors in each of such areas. 1974, c. 109, s. 110 (19); 1976, c. 50, s. 20.

Where
election by
general vote
and where
by areas

(20) A by-law for the purpose mentioned in subsection (19) and a by-law repealing any such by-law shall not be passed later than the 1st day of September in the year of the election and shall take effect for the purpose of the election next after the passing of the by-law and remains in force until repealed. 1974, c. 109, s. 110 (20); 1978, c. 44, s. 12 (3).

Time for
passing
by-law

(21) Where two or more county or district municipalities are combined for the election of one or more trustees, such trustee or trustees shall, except where a determination is made under subsection (9), be elected by a general vote of the separate school electors of the combined municipalities, and where, under subsection (9) or (10) a portion of a county municipality is attached to one or more other county municipalities for the election of one or two trustees, such trustee or trustees shall be elected by a general vote of the separate school electors of such combined area, and,

Elections in
combined
areas

- (a) the nominations in each case shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes of any municipality all of which is in the area for which the trustee or trustees are to be elected, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and
- (b) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause (a), who shall prepare the final summary and announce the vote.

Secretary of
board deemed
clerk for
elections in
areas deemed
district
municipalities

(22) For the purposes of clause (21) (b), the secretary of the district combined separate school board shall be the clerk of each part of territory without municipal organization in the district combined separate school zone that is deemed to be a district municipality for separate school purposes.

Elections

(23) The election of trustees of a county or district combined separate school board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality. 1974, c. 109, s. 110 (21-23).

Effect of
boundary
change on
elections

114. Where the boundaries of an area designated by the regulations under subsection 105 (2) in respect of a county or district combined separate school board or the boundaries of one or more municipalities in such area are to be altered effective on or before the 1st day of January next following an election of trustees of the board, such boundaries shall be deemed to have been altered for all purposes relating to such election except for the purpose of determining the persons responsible for performing duties in connection with the election. 1978, c. 44, s. 13.

Number of
votes to be
cast

115.—(1) Every person in a municipality or in a part thereof or in a combination of municipalities who is qualified to vote for trustees of a separate school board under sections 105 to 118 is entitled to as many votes as there are trustees to be elected in such municipality or part or combination of municipalities, but may not give more than one vote to any one candidate.

Retiring
trustees
eligible for
re-election

(2) A trustee of a county or district combined separate school board is eligible for re-election if otherwise qualified.

(3) Every nominator of a candidate for the office of a trustee to be elected to a separate school board under sections 105 to 118 shall be a separate school elector.

Qualifications for nominators of candidates

(4) No person shall qualify himself as a candidate for more than one seat on a county or district combined separate school board, and any person who so qualifies himself and is elected to hold one or more seats on the county or district combined separate school board is not entitled to sit as a trustee of the board by reason of the election, and his seat or seats are thereby vacated. 1974, c. 109, s. 112 (1-4).

Person not to be candidate for more than one seat on board

116.—(1) The cities of Vanier and Ottawa and the Village of Rockcliffe Park are continued as a county combined separate school zone under sections 105 to 118.

Ottawa separate school zone

(2) The separate school board for such combined separate school zone is continued as a corporation by the name of “The Ottawa Roman Catholic Separate School Board” and shall consist of sixteen trustees.

Ottawa Board

(3) The number of trustees to be elected by the separate school electors in the area comprising the City of Ottawa and the Village of Rockcliffe Park shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying sixteen by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the City of Ottawa and the Village of Rockcliffe Park to the equalized residential and farm assessment of all the property rateable for separate school purposes in the combined separate school zone, and such trustees shall be elected by general vote.

Number of trustees to be elected in Ottawa and Rockcliffe Park

(4) The number of trustees to be elected by the separate school electors in the City of Vanier shall be sixteen, less the number determined under subsection (3), and such trustees shall be elected by general vote, but in no case shall the number of trustees elected under this subsection be fewer than one.

Vanier

(5) The trustees of The Ottawa Roman Catholic Separate School Board shall be elected at the same time and place and for the same term of office as the members of The Ottawa Board of Education, and the nomination of candidates for the offices of trustees to be elected by the separate school electors in the City of Ottawa and the Village of Rockcliffe Park shall be submitted to the returning officer of the City of Ottawa, and the clerk of the Village of Rockcliffe Park, forthwith after the election, shall report the vote recorded in his municipality to the clerk of the City

Election of trustees, term of office

of Ottawa who shall prepare the final summary and announce the vote.

Application
of ss. 105-118

(6) Except where inconsistent with this section, the other provisions of sections 105 to 118 in respect of county combined separate school boards apply with necessary modifications to the board established under subsection (2). 1974, c. 109, s. 113.

Carleton
combined
separate
school zone

R.S.O. 1980,
c. 439

117.—(1) The separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area municipality as defined in the *Regional Municipality of Ottawa-Carleton Act*, except the cities of Vanier and Ottawa and the Village of Rockcliffe Park, are continued as a county combined separate school zone.

Carleton
Board

(2) The separate school board for such county combined separate school zone is continued as a corporation by the name of "The Carleton Roman Catholic Separate School Board".

Election of
trustees,
term of
office

(3) The trustees of The Carleton Roman Catholic Separate School Board shall be elected at the same time and for the same term of office as the members of The Carleton Board of Education.

Application
of Act to
Carleton
Board

(4) Except as provided in this section, all the provisions of this Act respecting county combined separate school boards apply to The Carleton Roman Catholic Separate School Board.

Part of
Ottawa-
Carleton
deemed
county

R.S.O. 1980,
c. 439

(5) For county combined separate school purposes, the area municipalities as defined in the *Regional Municipality of Ottawa-Carleton Act*, except the cities of Ottawa and Vanier and the Village of Rockcliffe Park, shall be deemed to be a county. 1974, c. 109, s. 114.

Essex county

118.—(1) For county combined separate school purposes, the County of Essex does not include the City of Windsor.

Application
of ss. 207, 208

(2) Sections 207 and 208 apply with necessary modifications to the City of Windsor and The Windsor Roman Catholic Separate School Board. 1974, c. 109, s. 115.

Rates, Borrowing Powers and Grants

Exemption of
supporters
from public
school rates

119.—(1) Every person paying rates in a separate school zone on property that he occupies as owner or tenant or on unoccupied property that he owns, who by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and that he wishes to be a separate

school supporter, is exempt from the payment of all rates imposed on such property in the separate school zone for public school purposes for the following year and every subsequent year while he continues to be a separate school supporter with respect to such property.

- (2) The notice is not required to be renewed annually.

No renewal required
- (3) Any person who is a Roman Catholic and resident on a parcel of land that is within a separate school zone may be a separate school supporter in that zone.

Who may be supporters of separate schools
- (4) Any person who, if he were resident in a separate school zone, would be entitled to be a supporter of a separate school and who is the owner of unoccupied land situate in the separate school zone, may, on or before the 30th day of September in any year, by written notice to the clerk of the municipality in which the land is situate or, where the land is not in a municipality, to the secretaries of the public and separate school boards, direct that all such land in the separate school zone shall be assessed for the purposes of the separate school.

Rights of non-residents to be assessed for separate school
- (5) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof.

Certificate of notice
- (6) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates, and in addition is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Penalty for wilful false statements in notice
- (7) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the separate school zone. 1974, c. 109, s. 116.

As to rates imposed before separate school established
- 120.—(1) A Roman Catholic who desires to withdraw his support from a separate school shall, on or before the 30th day of September in any year, give notice in writing that he desires to withdraw his support for the following year,

Notice of withdrawal of support
- (a) where the separate school is situated in a municipality, to the clerk of the municipality; or
- (b) where the separate school is situated in territory without municipal organization,

- (i) if he resides in a school section, to the secretary of the public school board of the section and to the secretary of the separate school board, or
- (ii) if he does not reside in a school section, to the secretary of the separate school board,

otherwise he shall be deemed to be a supporter of the separate school.

Exception

(2) A person who withdraws his support from a Roman Catholic separate school is not exempt from paying rates for separate school purposes imposed before the date on which the withdrawal of such support is effective. 1974, c. 109, s. 117.

**Liability of
non-resident
supporter**

121.—(1) Where a person resides in a separate school zone and is a separate school supporter in such zone but his residence is situate in a municipality other than a municipality in which a centre of such zone is located, he is liable to pay and shall pay the separate school rates or taxes imposed by the board of the separate school of which he is a supporter upon property that is situate in such zone and that he occupies as owner or tenant or that is unoccupied and owned by him, and he is not liable to pay rates or taxes to any other separate school board in respect of such property.

**How
enforceable**

(2) The board of the school of which he is a supporter shall notify the clerk of the municipality in which such supporter resides of the amount of the school taxes or rates payable by him, and the same shall be collected in like manner as other taxes, and when collected shall be paid over to the board. 1974, c. 109, s. 118.

**Clerk to keep
index book**

122.—(1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by sections 119, 125 and 126 or by former Acts respecting separate schools.

Entries

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 120, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the Assessment Review Court, by a judge, by the Ontario Municipal

Board or by the Divisional Court, with the date of the disallowance.

(3) The index book shall be open to inspection by any Inspection ratepayer.

(4) The clerk shall file and carefully preserve all such notices Filings heretofore or hereafter received.

(5) The clerk and the appropriate assessment commissioner Clerk to be guided by index book shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. 1974, c. 109, s. 119.

123.—(1) If it appears to the council of any municipality after the final revision of the list supplied to the clerk under section 14 of the *Assessment Act* that through mistake or inadvertence a ratepayer has been entered on the list either as a supporter of separate schools or as a supporter of public schools, the council after due inquiry and notice may correct the error by directing the school taxes of the ratepayer to be paid to the proper school board, but the council is not competent to reverse the decision of the Assessment Review Court, a judge, the Ontario Municipal Board or the Divisional Court on appeal. Correction of mistakes in assessing R.S.O. 1980, c. 31

(2) In case of such action by a council, the ratepayer is Liability liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. 1974, c. 109, s. 120.

124.—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under the heading of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes. Distinguishing the school rates

(2) The proceeds of any such rate shall be kept distinguished Idem by the collector and accounted for accordingly. 1974, c. 109, s. 121.

125.—(1) The occupant or tenant of land shall be deemed to be the person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves alters or affects this provision. Case of owner and occupant

(2) Where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant When owner may exercise option

or occupant to pay the same, the owner is compelled to pay such school rate, he may direct the same to be applied to either public or separate school purposes, and if the public school rate and the separate school rate are not the same he is only liable to pay the amount of the rate of the schools to which he directs his money to be paid. 1974, c. 109, s. 122.

Right of
corporation
to support
separate
schools

126.—(1) A corporation by notice (Form 2) to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of the corporation made under the *Assessment Act*, to be entered, rated and assessed for the purposes of the separate school.

R.S.O. 1980,
c. 31

Duty of clerk

(2) The clerk shall thereupon enter the corporation as a separate school supporter in the collector's roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes.

How
proportions
settled

(3) Unless all the stock or shares are held by Roman Catholics, the share or portion of such land and business or other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares.

Effect of
notice

(4) A notice given in pursuance of a resolution of the directors is sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors, except that, upon appeal, if it is ruled that the notice is not a proper notice, it is void, and the clerk shall so notify the corporation and mark the notice accordingly.

Filing notice

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect a collector's roll.

(6) The clerk shall in each year, before the final revision of the list supplied to the clerk under section 14 of the *Assessment Act*, search for and examine all notices that may be so on file and shall follow and conform thereto and to the provisions of this Act. 1974, c. 109, s. 123.

Search for
notices
R.S.O. 1980,
c. 31

127.—(1) Every separate school board shall prepare and adopt estimates of all sums required during the year for separate school purposes, and the provisions of section 209 in respect of the preparation and adoption of the estimates of all sums required for public school purposes by a divisional board of a school division apply, with necessary modifications, to a separate school board for separate school purposes.

Estimates

(2) Where rates or taxes in respect of separate schools are levied and collected by the council of a municipality under section 133 and the separate school board is unable in any year to submit to the council on or before the 1st day of March the rates required by the separate school board to be levied and collected in the municipality for separate school purposes, the later submission thereof does not relieve the council of its duty under section 133 to levy and collect such rates, and, where the municipality is required, by reason of such later submission, to levy such rates by a separate levy from the amount levied for municipal purposes, the separate school board on the request of the treasurer of the municipality shall pay to the treasurer the cost of levying such rates.

Where cost
of separate
levy payable
by board

(3) Subsection 164 (5) of the *Municipal Act* does not apply to a separate school board. 1974, c. 109, s. 124.

Application of
R.S.O. 1980,
c. 302

128.—(1) The board of a separate school may in respect of the estimates adopted under section 127 impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities.

Powers of
trustees

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment by reason of there being no person resident thereon or no goods and chattels to distraint, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon.

Land on
which there
are rates
uncollected

Return

(3) The clerk shall make a return of such land and the arrears of separate school rates thereon to the appropriate municipal treasurer.

Collection of rates

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes.

Deficiency

(5) The council of the township, village, town or city in which the separate school zone is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. 1974, c. 109, s. 125.

Levy for costs for transportation and board and lodging of secondary school pupils not resident in secondary school district

129. Where some of the supporters in a separate school zone reside in a municipality or in territory without municipal organization and in a secondary school district and other supporters in the separate school zone reside in another municipality or in territory without municipal organization and not in a secondary school district, and the separate school board,

(a) provides daily transportation; or

(b) reimburses the parents or guardians for the cost of board, lodging and transportation once a week under subsection 166 (10),

for secondary school pupils whose parents or guardians are separate school supporters who do not reside in the secondary school district, such separate school board may levy the cost of such transportation or reimbursement for the preceding year, less the legislative grants paid thereon, on the supporters who do not reside in the secondary school district. 1974, c. 109, s. 126.

Determining school rates by equalizing factor

130.—(1) Where a separate school zone includes territory in two or more municipalities, the board shall, when it is setting the rates to be levied in any year, use an equalizing factor for each municipality in the zone which, when applied to the local assessment of properties in a municipality, would increase or decrease the local assessment on such properties to a sum equal to the local assessment on similar properties in the municipality in which the greatest number of its pupils reside.

Adoption of rate

(2) The board shall adopt a tax rate to be levied in the municipality in which the greatest number of its pupils reside and multiply that rate by the factor determined for each municipi-

pality in the zone, and the resulting rates calculated to the nearest tenth of a mill shall be the rates in the respective municipalities for separate school purposes in the zone.

(3) For the purpose of determining the factors, the board shall appoint three arbitrators who are not trustees who shall meet and determine the factors. Arbitrators,
appointment

(4) The secretary of the board shall call the meeting of the arbitrators. Meeting

(5) The arbitrators shall base their decision on a comparison of the local assessment on sample properties that are assessed to the support of the separate schools in the municipality in which the greatest number of its pupils reside with the local assessment on similar properties in the other municipalities in which any part of the separate school zone is situated, and the factors so determined shall be used by the board when it sets its rates at any time following the decision of the arbitrators and until the factors are altered by arbitration. Determina-
tion of factors

(6) The factors shall be determined, When factors
to be
determined

(a) in the year in which the separate school is formed;

(b) in any year that is divisible evenly by 5;

(c) in any year in which the basis of assessing has been changed in any of the municipalities in which part of the separate school zone is situate; and

(d) in any year if the board so directs.

(7) Five supporters of the separate school in the separate school zone or the majority of the supporters who reside in one municipality in the zone may, on or before the 1st day of November in any year, appeal to the board against the last determination of the factors, and the decision of the board is final. Appeal to
board

(8) The factors determined in any year shall be used for the purposes of taxation in the following and subsequent years until the year following the next determination of the factors. Use of
factors

(9) The cost of the arbitration shall be paid by the separate school board. 1974, c. 109, s. 127. Cost of
arbitration

131. The clerk or other officer of a municipality within or adjoining which a separate school is established, having Trustees may
copy assess-
ment roll of
municipality

possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. 1974, c. 109, s. 128.

Clerk to give trustees annual statement of support of separate schools

132. The clerk of a municipality in which there is a separate school board shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons who are separate school supporters with the amount for which each person has been rated upon the assessment roll. 1974, c. 109, s. 129.

Request for collection of separate school rates by the municipality

133.—(1) The council of a municipality, if so requested on or before the 1st day of February in any year by a separate school board having jurisdiction in the municipality, shall levy and collect upon the property rateable for separate school purposes in the municipality and within the jurisdiction of the board, the rates or taxes imposed thereon by the board, and such request shall be deemed to continue from year to year unless terminated by the board giving notice to the council on or before the 1st day of February in any year.

Expenses of collection

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation shall be borne by the corporation, and the rates and taxes collected for separate school purposes shall be paid by the corporation to the treasurer of the board and the provisions of section 215 shall apply with necessary modifications to such rates and taxes. 1974, c. 109, s. 130.

Borrowing powers of separate school trustees

134.—(1) The board of a separate school may pass by-laws for borrowing money, by mortgages or other instruments, upon the security of the schoolhouse property and premises and any other real or personal property vested in the board and upon the separate school rates for the purpose of paying the cost of school sites, school buildings or additions or repairs thereto or for any other school purposes.

Terms of payment

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money that it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures, and the debentures are a charge on the same property and the rates as in the case of mortgages thereof made by the board. Debentures

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in thirty years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by the *Municipal Act* in the case of debentures issued under that Act. Maturity
R.S.O. 1980,
c. 302

(5) Where the debt is not payable by instalments, the board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable. Sinking fund

(6) The sum referred to in subsection (5) shall be deposited with a chartered bank or a trust company that is registered under the *Loan and Trust Corporations Act*, and such sum and any income resulting therefrom shall be invested by such bank or trust company in the manner provided in the *Municipal Act* for sinking funds, and subsections 146 (4) to (9) of the *Municipal Act* apply with necessary modifications except that reference therein to the Ministry of Intergovernmental Affairs shall be deemed to be a reference to the Ministry of Education. Investment
of fund
R.S.O. 1980,
c. 249

(7) Before a by-law for borrowing money for a permanent improvement is acted upon, notice of the passing of the by-law shall be published for three consecutive weeks in a newspaper having general circulation within the separate school zone stating, Publication
of notice of
by-law

(a) the purpose for which the money is to be borrowed;

(b) the amount to be borrowed and the security therefor;

(c) the terms of repayment including the rate of interest,

and, if no application to quash the by-law is made for three months after publication of notice of the passing thereof, the by-law is valid notwithstanding any want of substance or form in the by-law or in the time or manner of passing the by-law.

(8) The debentures issued under the by-law may be for such amounts as the board considers expedient. 1974, c. 109, s. 131. Amounts

Share of legislative grants

135.—(1) Every separate school shall share in the legislative grants in like manner as a public school.

Right of separate schools to a share of municipal grants

(2) Every separate school is entitled to share in all grants, investments and allotments for public school purposes made by any municipal authority according to the average number of pupils enrolled at the school during the next preceding twelve months, or during the number of months that may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils enrolled at school in the same city, town, village or township.

Apportionment

(3) Where the grant is made by a council of a county or a regional municipality it shall be apportioned in like manner as the legislative grant.

Not to share in public school assessment

(4) A separate school is not entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. 1974, c. 109, s. 132.

Visitors

Separate school visitors

136. A parent or guardian of a child attending a separate school and a member of the board that operates the school may visit such school, and a member of the Assembly and a clergyman of the Roman Catholic Church may visit a separate school in his constituency or in the area where he has pastoral charge, as the case may be. 1974, c. 109, s. 133.

FORM 1

FORM OF INDEX BOOK

[Section 122 (1)]

Names	Notices claiming exemption, when received	Remarks
Allen, John.	3rd February, 19..	Notice of withdrawal received 1st January, 19...
Ardagh, Joseph. . . .	3rd February, 19..	
Ashbridge, Robert. .	3rd February, 19..	Disallowed by Assessment Review Court, 1st June, 19...

FORM 2

NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX

[Section 126 (1)]

To the Clerk of (*describing the municipality*)

Take notice that (*here insert the name of the corporation so as to sufficiently and reasonably designate it*), pursuant to a resolution in that behalf of the directors, requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within (*giving the name of the municipality*) as is hereinafter designated, shall be entered, rated and assessed for separate school purposes, namely, (*here insert fraction of assessment so designated*) of the land and business or other assessments.

Given on behalf of the company (*here insert date*).

Secretary of the Company.

1974, c. 109, Form 2.

PART V

PROTESTANT SEPARATE SCHOOLS

137.—(1) Subject to subsection (3), five or more heads of families resident in a municipality and being Protestants may, before the 1st day of July in any year, apply in writing, in the case of a township, to the council of the township or, in the case of an urban municipality, to the public school board for permission to establish in the municipality one or more separate schools for Protestants.

Application
to establish
Protestant
separate
school

(2) Subject to subsection (3), the council or the public school board, as the case may be, within thirty days of the receipt of a proper application shall grant permission to the applicants to establish in the municipality one or more separate schools for Protestants.

Permission to
establish

(3) A Protestant separate school shall not be established in a municipality except where the teacher or teachers in the public school or schools in the municipality are Roman Catholics.

Restrictions
on establish-
ment

(4) A Protestant separate school is established on the day following the granting of permission to establish the school by the council or public school board, as the case may be.

Effective
date

138.—(1) Every person paying rates on property that he occupies as owner or tenant in a municipality in which a

Notice to be
supporter,
exemption
from public
school rates

Protestant separate school is established, who, by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Protestant and that he wishes to be a Protestant separate school supporter, is exempt from the payment of all rates imposed on such property for the support of public schools or for the purchase of land or the erection of buildings for public school purposes for the following year and every subsequent year while he continues to be a Protestant separate school supporter with respect to such property.

No renewal
required

(2) The notice is not required to be renewed annually.

Certificate
of notice

(3) Every clerk of a municipality, upon receiving the notice shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof.

Penalty for
wilful false
statements
in notice

(4) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates and in addition is guilty of an offence and liable to a fine of not more than \$100.

As to rates
imposed
before
Protestant
separate
school
established

(5) Nothing in this section exempts any person from paying any rate for public school purposes imposed before the establishment of the Protestant separate school. 1974, c. 109, s. 135.

Withdrawal
of support

139. A Protestant separate school supporter who desires to withdraw his support from a Protestant separate school shall give notice thereof in writing to the clerk of the municipality in which he resides on or before the 30th day of September in any year, otherwise he shall be deemed to be a Protestant separate school supporter. 1974, c. 109, s. 136.

Index book

140.—(1) The clerk of each municipality in which a Protestant separate school is established shall keep an index book to record the name of each Protestant who has declared himself to be a supporter of a Protestant separate school in the same manner with necessary modifications as is provided for the keeping of an index of each Roman Catholic who has declared himself to be a supporter of a Roman Catholic separate school.

Inspection

(2) The index book shall be open to inspection by any ratepayer.

Filing of
notices

(3) The clerk shall file and carefully preserve all notices given to the clerk of the municipality under sections 138 and 139.

(4) The clerk and the appropriate assessment commissioner shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. 1974, c. 109, s. 137.

Clerk to be
guided by
index book

141.—(1) Protestant separate schools shall not share in money raised by local municipal assessment for public school purposes.

Not to
share in
public school
assessment

(2) Every Protestant separate school shall share in the legislative grants in like manner as a public school. 1974, c. 109, s. 138.

Share of
legislative
grants

142.—(1) Every Protestant separate school board and principal of a Protestant separate school in a municipality shall transmit reports to the Ministry in such form and at such times as may be required by the Minister.

Reports

(2) The clerk or other officer of the municipality in which a Protestant separate school is established who has possession of the assessor's or collector's roll of the municipality shall allow any trustee or the authorized collector of the board to make a copy of the roll. 1974, c. 109, s. 139.

Use of
assessor's roll
by board

143. Every person who is assessed as a Protestant separate school supporter and whose name appears on the list of voters of the municipality in which the land in respect of which he or she is assessed is situate, and the wife or husband of such supporter, if she or he is a Protestant, is entitled to vote at the election of trustees for the Protestant separate school board and on any school question having to do with the Protestant separate school or board. 1974, c. 109, s. 140.

Qualification
of a voter

144.—(1) A Protestant separate school trustee shall have the same qualifications as a public school trustee, except that he shall be a supporter of a Protestant separate school.

Qualification
of a trustee

(2) A Protestant separate school board shall have the same number of trustees as a Roman Catholic separate school board would have if established in the same municipality, and the trustees may be elected in the same manner as Roman Catholic separate school trustees may be elected, and the provisions of Part IV with respect to the election of trustees of Roman Catholic rural and urban separate schools apply with necessary modifications to the election of trustees of Protestant rural and urban separate school boards. 1974, c. 109, s. 141.

Election of
trustees

Corporate name of board **145.** The trustees of every Protestant separate school board are a body corporate under the name of "The Protestant Separate School Board of the....." (*inserting the name of the city, town, village or township*). 1974, c. 109, s. 142.

Powers of board **146.** A Protestant separate school board has the same powers as a district school area board. 1974, c. 109, s. 143.

Dis-continuing board **147.** A Protestant separate school board is discontinued in the same manner as a Roman Catholic separate school board is discontinued and may be re-established in the manner provided in section 137. 1974, c. 109, s. 144.

Application of other sections **148.** Subsections 97 (3) and (4), subsection 98 (2), sections 123, 124 and 125 and clause 174 (1) (*d*) apply in respect of Protestant separate schools and Protestant separate school boards. 1974, c. 109, s. 145.

PART VI

BOARDS

Duties and Powers

- Duties of boards: **149.** Every board shall,
- appoint secretary-treasurer 1. appoint a secretary and a treasurer or a secretary-treasurer who, in the case of a board of not more than five elected members, may be a member of the board;
- security of treasurer 2. take proper security from the treasurer or secretary-treasurer;
- order payment of bills 3. give the necessary orders on the treasurer for payment of all moneys expended for school purposes and of such other expenses for promoting the interests of the schools under the jurisdiction of the board as may be authorized by this Act or the regulations and by the board;
- meetings 4. fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept;
- head office 5. establish and maintain a head office and notify the Ministry of its location and address and notify the Ministry of any change in the location or address of the head office within ten days of such change;

6. provide instruction and adequate accommodation during each school year for the pupils who have a right to attend a school under the jurisdiction of the board; provide instruction and accommodation
7. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be; special education programs and services
8. keep the school buildings and premises in proper repair and in a proper sanitary condition, provide suitable furniture and equipment and keep it in proper repair, and protect the property of the board; repair property
9. make provision for insuring adequately the buildings and equipment of the board and for insuring the board and its employees and volunteers who are assigned duties by the principal against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board; insurance
10. ensure that every school under its charge is conducted in accordance with this Act and the regulations; conduct schools
11. keep open its schools during the whole period of the school year determined under the regulations, except where it is otherwise provided under this Act; school open
12. appoint for each school that it operates a principal and an adequate number of teachers, all of whom shall be qualified according to this Act and the regulations; appoint principal and teachers
13. provide, without charge, for the use of the pupils attending the school or schools operated by the board, the textbooks that are required by the regulations to be purchased by the board; provide textbooks
14. where it furnishes transportation for pupils in a vehicle that is owned by the board, provide and carry with an insurer licensed under the *Insurance Act* for each such vehicle at least the amount of insurance that is required to be provided in respect of such a vehicle by the licensee of a school vehicle under the *Public Vehicles Act*; vehicle insurance

R.S.O. 1980,
cc. 218, 425

report
children
not
enrolled

15. ascertain and report to the Ministry at least once in each year in the manner required by the Minister the names and ages of all children of compulsory school age within its jurisdiction who are not enrolled in any school or private school and the reasons therefor;

reports

16. transmit to the Minister all reports and returns required by this Act and the regulations;

statement of
sick leave
credits

17. issue to an employee, upon the termination of his employment with the board, a statement of the sick leave credits standing to his credit with the board at the time of such termination. 1974, c. 109, s. 146; 1976, c. 50, s. 21; 1980, c. 61, s. 17.

Powers of
boards:

150.—(1) A board may,

committees

1. appoint such committees as it considers expedient;

appoint
employees

2. subject to Part X, appoint and remove such officers and servants and, subject to Part IX, appoint and remove such teachers, as it considers expedient, determine the terms on which such officers, servants and teachers are to be employed, prescribe their duties and fix their salaries, except that in the case of a secretary of a board who is a member of the board, the board may pay only such compensation for his services as is approved by the electors at a meeting of the electors;

voluntary
assistants

3. permit a principal to assign to a person who volunteers to serve without remuneration such duties in respect of the school as are approved by the board and to terminate such assignment;

supervisors

4. appoint supervisors of the teaching staff for positions that are provided for in any Act or regulation administered by the Minister and every appointee shall hold the qualifications and perform the duties required in the Act or regulations;

psychiatrist
or
psychologist

5. appoint one or more,
 - i. psychiatrists who are on the register of specialists in psychiatry of The Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario,

- ii. psychologists who are legally qualified medical practitioners or hold a certificate of registration under the *Psychologists Registration Act*; R.S.O. 1980, c. 404
6. determine the number and kind of schools to be established and maintained, and the attendance area for each school; schools and attendance areas
7. provide instruction in courses of study that are prescribed or approved by the Minister, developed from curriculum guidelines issued by the Minister or approved by the board where the Minister permits the board to approve courses of study; 1974, c. 109, s. 147 (1), pars. 1-7. courses of study
8. in lieu of purchasing a computer or system of computer programming, enter into an agreement for the use thereof by the board; 1976, c. 50, s. 22 (1). computer programming
9. operate the school ground as a park or playground and rink during the school year or in vacation or both, and provide and maintain such equipment as it considers advisable, and provide such supervision as it considers proper, provided the proper conduct of the school is not interfered with; playgrounds, parks, rinks
10. organize and carry on gymnasium classes in school buildings for pupils or others during the school year or in vacation or both, and provide supervision and training for such classes, provided the proper conduct of the school is not interfered with; gymnasiums
11. purchase milk to be consumed by the pupils in the schools under the jurisdiction of the board during school days in accordance with the terms and conditions prescribed by the regulations; milk
12. provide school supplies, other than the textbooks that it is required to provide under paragraph 13 of section 149, for the use of pupils; provision of supplies, etc.
13. establish and maintain school libraries and resource centres; libraries
14. establish kindergartens and junior kindergartens; kindergartens, junior kindergartens
15. provide that the signature of the treasurer and of any other person authorized to sign cheques issued by the treasurer may be written or engraved, litho- signatures mechanically reproduced

graphed, printed or otherwise mechanically reproduced on cheques;

membership
fees and
travelling
expenses

16. pay the travelling expenses and membership fees of any member of the board or of any teacher or officer of the board, incurred in attending meetings of an educational association and may make grants and pay membership fees to any such organization;

legal costs

17. pay the costs, or any part thereof, incurred by any member of the board or by any teacher, officer or other employee of the board in successfully defending any legal proceeding brought against him,
 - i. for libel or slander in respect of any statements relating to the employment, suspension or dismissal of any person by the board published at a meeting of the board or of a committee thereof, or
 - ii. for assault in respect of disciplinary action taken in the course of duty;

invest funds

18. invest funds received from an insurance claim, gift, legacy or sale of property in such securities as a trustee may invest in under the *Trustee Act*; 1974, c. 109, s. 147 (1), pars. 9-18.

R.S.O. 1980,
c. 512

idem

19. invest moneys not required immediately by the board in,
 - i. bonds, debentures or other evidences of indebtedness of, or guaranteed by, the Government of Canada or the Province of Ontario, or any other province of Canada,
 - ii. debentures, notes or guaranteed investment certificates of or term deposits with any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act*,
 - iii. term deposits, deposit receipts, deposit notes, certificates of deposit, acceptances and other similar instruments issued, accepted, guaranteed or endorsed by any chartered bank to which the *Bank Act* (Canada) applies,
 - iv. promissory notes of a municipality as defined in the *Municipal Affairs Act*, and promissory notes of a metropolitan municipality, a regional municipality, the District Municipality of Muskoka and the County of Oxford, and

R.S.O. 1980,
c. 249

1980-81,
c. 40 (Can.)

R.S.O. 1980,
c. 303

- v. term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*, R.S.O. 1980,
c. 102

provided that the investments become due and payable by the day on which the moneys are required by the board, and all interest thereon shall be credited to the fund from which the moneys are invested; 1979, c. 99, s. 1.

20. notwithstanding any other Act, borrow, for any purpose for which the board has authority to spend money, any moneys in any fund established by the board that are not immediately required by the board for the purposes of such fund, but such borrowing shall not extend beyond the term of office of the members of the board and, where secondary school moneys are borrowed for public school purposes or public school moneys are borrowed for secondary school purposes, the board shall pay interest to the fund from which such moneys are borrowed at a rate not less than that being earned by the fund at the date of borrowing; borrowing
from funds
21. subject to the provisions of this Act and the regulations, fix the fees to be paid by or on behalf of pupils, and the times of payment thereof, and when necessary enforce payment thereof by action in the small claims court, and exclude any pupil by or on behalf of whom fees that are legally required to be paid are not paid after reasonable notice; student fees
22. permit the school buildings and premises and school buses owned by the board to be used for any educational or other lawful purpose; permit use
of school and
school buses
23. provide for surgical treatment of children attending the school who suffer from minor physical defects, where in the opinion of the teacher and, where a school nurse and medical officer are employed, of the nurse and medical officer, the defect interferes with the proper education of the child, and include in the estimates for the current year the funds necessary for cases where the parents are not able to pay, provided that no such treatment shall be undertaken without the consent of the parents or guardian of the child; surgical
treatment
24. establish and maintain cadet corps; cadet corps

- | | |
|----------------------|---|
| athletics | 25. provide for the promotion and encouragement of athletics and for the holding of school games ; |
| activities | 26. provide, during the school year or at other times, activities and programs on or off school premises, including field trips, and exercise jurisdiction over those persons participating therein ; |
| guidance | 27. appoint one or more teachers qualified in guidance according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils as will enable them to plan intelligently for their educational and vocational advancement ; |
| public lectures | 28. conduct free lectures open to the public and include in the estimates for the current year the expenses thereof ; |
| summer schools | 29. establish summer schools for pupils ; |
| courses for teachers | 30. establish and conduct during the school year courses for teachers ; |
| evening classes | 31. establish evening classes ; |
| erect fences | 32. erect and maintain any wall or fence considered necessary by the board for enclosure of the school premises ; |
| school fairs | 33. contribute toward the support of school fairs ; |
| student activities | 34. authorize such school activities as pertain to the welfare of the pupils and exercise jurisdiction in respect thereof ; |
| cafeteria | 35. operate a cafeteria for the use of the staff and pupils ; |
| records management | 36. institute a program of records management that will, subject to the regulations in respect of pupil records, <ul style="list-style-type: none">i. provide for the archival retention by the board or the Archivist of Ontario of school registers, minute books of the board and its predecessors, documents pertaining to boundaries of school sections, separate school zones and secondary school districts, original assessment and taxation records in the possession of the board and other records considered by |

the board to have enduring value or to be of historical interest, and

- ii. establish, with the written approval of the auditor of the board, schedules for the retention, disposition and eventual destruction of records of the board and of the schools under its jurisdiction other than records retained for archival use;
37. employ and pay teachers, when so requested in writing by a charitable organization having the charge of children of school age, for the education of such children, whether such children are being educated in premises within or beyond the limits of the jurisdiction of the board, and pay for and furnish school supplies for their use; 1974, c. 109, s. 147 (1), pars. 20-37. education of children in charitable organizations
38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith; 1980, c. 61, s. 18. programs in detention homes
39. provide for maternity leave for a teacher, not exceeding two years for each pregnancy; maternity leave
40. establish, subject to the regulations, special education programs to provide special education services for children who require such services; special education
41. when requested by the board of a cerebral palsy treatment centre school, a crippled children's treatment centre school, a hospital school or a sanatorium school, and with the approval of the Minister, by agreement, assume the assets and liabilities of such board and continue to operate such a school, and, upon the effective date of the agreement between the two boards, the board making the request is dissolved; assumption of treatment centres, etc.
42. where a recreation committee or a joint recreation committee has been appointed for territory without municipal organization within the jurisdiction of the board, exercise the powers and duties of a muni- recreation committees

cipal council with respect to preparing estimates of the sums required during the year for the purposes of the committee or joint committee, and levying rates and collecting taxes for such purposes on the rateable property supporting the board in such territory, and where such a joint recreation committee has been appointed, apportion the costs of such committee by agreement with the other board concerned;

agreement
for provision
and use of
recreational
facilities

43. with the approval of the Minister, enter into an agreement with a university, college of a university, or the board of governors of a polytechnical institute or of a college of applied arts and technology in respect of the provision, maintenance and use of educational or recreational facilities on the property of either of the parties to the agreement; 1974, c. 109, s. 147 (1), pars. 39-43.

election
recounts
R.S.O. 1980,
c. 308

44. pass a resolution referred to in subsection 83 (2) of the *Municipal Elections Act*; 1974, c. 109, s. 147 (1), par. 44; 1978, c. 44, s. 25.

insurance

45. provide for insurance against risks that may involve pecuniary loss or liability on the part of the board, and for paying premiums therefor. 1976, c. 50, s. 22 (2).

Collection
of rates in
territory
without
municipal
organization
by action

(2) In addition to any other remedy possessed by a board in territory without municipal organization for the recovery of rates imposed under the authority of this Act, the board, with the approval of the Minister, may bring an action in a court of competent jurisdiction for the recovery of any rates in arrear against the person assessed therefor. 1974, c. 109, s. 147 (2).

Establish-
ment of
scholarships,
etc.

151.—(1) Any person may, with the approval of the board concerned, establish scholarships, bursaries or prizes.

Idem

(2) A board may award bursaries or prizes to its pupils under such terms and conditions as the board may prescribe. 1974, c. 109, s. 148.

Vocational Courses

Vocational
courses

152.—(1) A secondary school board may provide vocational courses of study in one or more of its schools.

Courses of
study

(2) Vocational courses of study may comprise,

- (a) full-time day courses of study ;
- (b) part-time day courses of study ; and
- (c) evening courses of study .

(3) A secondary school board may provide for the admission of a pupil to a vocational course and may determine the procedures for admission to such course.

Admission
procedures

(4) Where a principal of a school is satisfied that an adult is competent to receive instruction in a vocational course, the adult may, without regard to his school standing, be admitted to,

Admission
of adult

- (a) a special full-time day course of study ;
- (b) a part-time day course of study ; or
- (c) an evening course of study ,

in the school. 1974, c. 109, s. 149.

153.—(1) A secondary school board that provides or plans to provide a vocational course may, by resolution, appoint an advisory committee to be known as the advisory committee for.....(*inserting the name of the vocational course*) and composed of such persons, all or any of whom may be members of the board, appointed for such term, not extending beyond the term of office of the members of the board, as the board considers necessary to advise the board on matters relating to the vocational course.

Advisory
committee

(2) A secondary school board may pay to each person appointed under subsection (1) who is not a member of the board such allowance as the board may determine for each month for which he is appointed, but such allowance shall not exceed one-half of the amount determined under subsection 167 (1) based on the enrolment on the 30th day of September in the preceding year in all secondary schools that, on the 1st day of January of the current year, are operated by the board. 1974, c. 109, s. 150.

Allowance

Benefits

154. A board may,

Powers
of board

- 1. provide, by contract with an insurer licensed under the *Insurance Act*,
 - i. group accident insurance to indemnify a member of a board or of an advisory com-

accident,
etc.,
insurance
R.S.O. 1980,
c. 218

mittee appointed by a board or his estate against loss in case he is accidentally injured or killed, and

- ii. group public liability and property damage insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate in respect of loss or damage for which he has become liable by reason of injury to persons or property or in respect of loss or damage suffered by him by reason of injury to his own property,

while travelling on the business of the board or in the performance of his duties as a member of the board or of an advisory committee either within or outside the area over which the board has jurisdiction;

accident and
public
liability
insurance
re work-
experience
programs
R.S.O. 1980,
c. 218

2. where, in co-operation with business, industry or other enterprise, it provides for pupils training programs designed to supplement the courses given in its schools, provide, by contract with an insurer under the *Insurance Act*, accident insurance to indemnify such pupils against loss in case they are accidentally injured while participating in such a program and public liability insurance to insure such pupils and the board against loss or damage to the person or property of others while the pupils are participating in such a program;

insurance
for pupils

3. provide, by contract with an insurer under the *Insurance Act*, accident and life insurance for pupils, the cost of which is to be paid on a voluntary basis by the parents or guardians. 1974, c. 109, s. 151.

Insurance,
hospital and
health
services
R.S.O. 1980,
c. 197

155.—(1) Subject to the *Health Insurance Act*, a board by resolution may provide,

R.S.O. 1980,
c. 388

- (a) by contract either with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act*,
 - (i) group life insurance for its employees or any class thereof,
 - (ii) group accident insurance or group sickness insurance for its employees or any class thereof and their spouses and children, and
 - (iii) hospital, medical, surgical, nursing or dental services, or payment therefor, for employees

or any class thereof and their spouses and children; and

(b) for payment by the board of the whole or part of the cost of any insurance or services provided under this subsection.

(2) A board may by resolution provide for paying the whole or part of the cost to employees of insured services under the *Health Insurance Act*.

Contributions re insured services
R.S.O. 1980, c. 197

(3) A board may retain a person who retires from employment with the board before he attains the age of sixty-five years in a group established for the purposes of a contract referred to in clause (1) (a) until he attains such age if he pays the full premium required to be paid to retain his participation in the contract. 1974, c. 109, s. 152.

Participation of retired person in contract

156.—(1) A board, by resolution, may provide pensions for employees or any class thereof under the *Ontario Municipal Employees Retirement System Act*.

Pensions
R.S.O. 1980, c. 348

(2) Notwithstanding subsection (1), a board that makes contributions to an approved pension plan, as defined in subsection 117 (1) of the *Municipal Act*, may continue to provide pensions under such plan, and the said section 117 applies with necessary modifications.

Idem
R.S.O. 1980, c. 302

(3) In this section, “employee” does not include a teacher or supervisory officer or an administrative officer who holds a certificate of qualification as a teacher and who is eligible to contribute to the Teachers’ Superannuation Fund.

Interpretation

(4) An employee of a divisional board who was a contributor or who was entitled to be a contributor under the *Ontario Municipal Employees Retirement System Act*, by reason of his employment with a former board on the 31st day of December, 1968, shall continue to be a contributor or to be entitled to be a contributor, as the case may be, and the divisional board shall assume in respect of such employee all the rights and obligations of the former board, but in respect of other employees, the divisional board, before such employees may participate under such Act, shall pass a resolution electing to become a participant under such Act, as required by the regulations made thereunder, and stating the effective date.

Employees of newly organized board

(5) A divisional board that is required to make the contribution of a former board to an approved pension

Assumption of board of rights and obligations of former board

R.S.O. 1980,
c. 302

plan, as defined in section 117 of the *Municipal Act*, in respect of an employee who was a contributor to such approved pension plan on the 31st day of December, 1968, shall assume all the rights and obligations of such former board under the approved pension plan in respect of such employee.

Saving

R.S.O. 1950,
cc. 165, 316,
356

(6) Nothing in this section affects any pension plan established and approved by the Minister before the 6th day of April, 1954 under section 39 of *The High Schools Act*, section 129 of *The Public Schools Act* or section 83 of *The Separate Schools Act*. 1974, c. 109, s. 153.

Retirement
allowances

157.—(1) A board may grant an annual retirement allowance, payable weekly, monthly or otherwise for such period as the board may determine, to any employee of the board who has been in the service of the board for at least twenty years and who,

(a) is retired because of age; or

(b) while in the service has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance shall be granted under this section which, together with the amount of any pension payments payable to the employee in any year under a pension plan of the board or any municipality or under the *Teachers' Superannuation Act*, will exceed three-fifths of his average annual salary for the preceding three years of his service.

R.S.O. 1980,
c. 494

Widow or
widower

(2) Where an employee,

(a) has been granted an annual retirement allowance under subsection (1) and subsequently dies; or

(b) would have been eligible, except for his death, for such an allowance,

the board may grant to the widow or widower of such employee for such period as the board may determine an annual allowance, not exceeding one-half of the maximum allowance that may be granted under subsection (1).

Interpre-
tation

(3) In subsection (1), "pension payments" means, in the case of pension payments under a board or municipal plan, only such payments that result from joint contributions of the employer and employee and does not include any such payments that result solely from contributions of the employee.

(4) Where the board has a pension plan in operation, or where a municipality has a pension plan in operation in which the employees of the board are included, this section applies only to employees who were in the employ of the board on or before the 1st day of July, 1954, and in any event does not apply to any employee who enters the service of the board after the 1st day of July, 1956.

Limitation
on
application
of section

(5) Nothing in this section affects any retirement allowance granted before the 6th day of April, 1954 under section 60 of *The High Schools Act* or section 128 of *The Public Schools Act*. 1974, c. 109, s. 154.

Idem

R.S.O. 1950,
cc. 165, 316

158.—(1) A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half year's earnings at the rate received by him immediately prior to termination of employment.

Sick leave
credits

(2) Where an employee of a board that has established a sick leave credit plan under this or any other general or special Act becomes an employee of another board that has also established a sick leave credit plan under this or any other general or special Act, the latter board shall, subject to the limitation in subsection (5), place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of the first-mentioned board.

Allowing of
credits on
transfer of
employment

(3) Notwithstanding subsection (2), where the contract of employment of an employee of a board has become an obligation of another board by or under any Act, the latter board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the system of sick leave credit gratuities of the first-mentioned board.

Where
transferred
because of
change in
jurisdiction
of board

(4) Where an employee of a municipality or a local board, as defined in the *Municipal Affairs Act*, except a school board, that has established a sick leave credit plan under any general or special Act, becomes an employee of a board that has established a sick leave credit plan under this or any other general or special Act, the board shall, subject to the limitation in subsection (5), place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of such municipality or local board.

Idem

R.S.O. 1980,
c. 303

Limitation

(5) The amount of sick leave credits placed to the credit of an employee under subsection (2) or (4) shall not exceed the amount of cumulative sick leave credits permitted under the plan to which the credits are placed.

Application of
subss. (2, 4)
where
intervening
employment

(6) Subsections (2) and (4) apply only where the transfer of employment from a school board to another school board or from a municipality or a local board to a school board is made without intervening employment that interrupts the continuity of employment under which sick leave credits are accumulated.

Exception

(7) Notwithstanding subsection (6), intervening employment with the Ministry does not preclude the application of subsections (2) and (4).

Applicability
of sick leave
credits

(8) Where an employee of a board that, before the 1st day of June, 1968, had established a sick leave credit plan became, on the 1st day of January, 1969, an employee of a divisional board or of a county or district combined separate school board, such board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the plan of the first-mentioned board.

Idem

R.S.O. 1950,
cc. 165, 316,
356

(9) Nothing in this section affects any sick leave credit plan established and approved by the Minister before the 6th day of April, 1954 under section 40 of *The High Schools Act*, section 130 of *The Public Schools Act* or section 84 of *The Separate Schools Act*. 1974, c. 109, s. 155.

Agreements

Agreements
to provide
accommoda-
tion or
services for
another
board

159.—(1) A board may, subject to subsection (2), enter into an agreement with another board to provide, for the other board for such periods and under such conditions as are specified in the agreement,

- (a) accommodation and equipment for administrative purposes;
- (b) accommodation and equipment for instructional purposes;
- (c) the services of teachers and other personnel; or
- (d) the transportation of pupils,

that the board by this Act is authorized or required to provide for its own pupils. 1974, c. 109, s. 156 (1); 1976, c. 50, s. 23.

(2) Where the construction of a school building or an addition, alteration or improvement to a school building is required under an agreement made under subsection (1), the agreement shall make provision for the payment of the cost of such building, addition, alteration or improvement and is not effective until approved by the Minister.

Where building, additions, etc., required

(3) Where, under an agreement, the board that does not provide the additional accommodation is required to bear and pay the cost thereof, the additional accommodation shall, for the purposes of issuing debentures, be deemed to be a permanent improvement of such board.

Where cost borne by board not providing accommodation

(4) An agreement under this section may, notwithstanding the regulations, provide for the calculation and payment of fees in respect of pupils covered by the agreement. 1974, c. 109, s. 156 (2-4).

Fees, exception

160.—(1) In this section,

Interpretation

(a) “board” includes The Metropolitan Toronto School Board;

(b) “municipality” includes a county and a district, metropolitan or regional municipality and a local board of a municipality or county or of a district, metropolitan or regional municipality, except a school board.

(2) One or more boards and the council of a municipality or the councils of two or more municipalities may enter into an agreement,

Agreements for joint use of facilities, etc.

(a) in respect of the use of existing facilities owned by one of such parties; or

(b) for the purpose of establishing and providing for the maintenance and operation of facilities on the property of any of the parties to such agreement,

for such cultural, recreational, athletic, educational, administrative or other community purposes as are set out in the agreement, and such agreement shall include provision for,

(c) the acquisition of any land that may be required for the purposes of the agreement, and the manner of approving and the method of apportioning the cost thereof;

- (d) the manner of approving and the method of apportioning the cost of the construction, maintenance and operation of the facilities;
- (e) the manner in which each party to the agreement shall pay its portion of the costs referred to in clauses (c) and (d) and the times when such costs shall be paid;
- (f) the regulation, control and use of the facilities including the charging of fees for admission thereto; and
- (g) the duration of the agreement and the manner in which and the terms upon which it may be terminated.

Approval of
Minister

(3) Where, pursuant to an agreement made under this section, a permanent improvement is required, it shall not be proceeded with until such plans and specifications therefor as are required by the Minister have been approved by the Minister.

Previous
agreement

(4) This section does not affect an agreement entered into before the 23rd day of June, 1972,

R.S.O. 1980,
c. 314

(a) under subsection 145 (2) of the *Municipality of Metropolitan Toronto Act*; or

(b) between a board and the council of a municipality, including a regional municipality or a county, or a local board thereof, for fulfilling, executing or completing, at their joint expense or at the expense of either of the parties to the agreement, any undertaking for the joint benefit of the parties to the agreement, including the joint use of educational and municipal facilities,

but after the 23rd day of June, 1972, an amendment to an agreement referred to in clause (a) or (b) or an agreement to which the said subsection 145 (2) applies may be made only in accordance with this section.

Facilities
deemed
community
recreation
centre

(5) Where an agreement under this section or an agreement referred to in subsection (4) between one or more boards and one or more municipalities provides for the use of existing facilities or for the establishment of facilities, such facilities or any of them that come within the definition of community recreation centre under the *Community Recreation Centres Act* may be considered by the Minister of Community and Social Services as a community recreation centre for the purposes of making grants under section 6 of that Act. 1974, c. 109, s. 157.

R.S.O. 1980,
c. 80

161.—(1) A public school board may enter into an agree- Agreement between public school boards
ment with another public school board under which one public school board shall furnish education for pupils of the other upon payment by such other public school board on behalf of such pupils of fees calculated in accordance with the regulations.

(2) A separate school board may enter into an agreement with another separate school board under which one separate school board shall furnish education for pupils of the other upon payment by such other separate school board on behalf of such pupils of fees calculated in accordance with the regulations. Agreement between separate school boards

(3) The board of an elementary school may provide for the admission of one or more of its pupils to a school for Indian children established, operated and maintained under the *Indian Act* (Canada), subject to the approval of the authority having control of such school, and the accommodation provided under such arrangement shall be in lieu of the accommodation that the board is required by this Act to provide for such pupils. Admission of pupils to Indian schools
R.S.C. 1970, c. 1-6

(4) The board of an elementary school may levy and collect upon the property rateable for the purposes of the board such sum as may be necessary to pay the fees of its pupils who attend schools for Indian children pursuant to subsection (3) and to pay for the transportation of such pupils to and from such schools as well as such other sums as the board considers expedient or as may be required by this Act. Levy for fees, transportation, etc.

(5) Where a board has arranged under this section for the admission of all its pupils to a school or schools that the board does not operate, the board may close its schools for the period during which such arrangement or arrangements are in effect. 1974, c. 109, s. 158. Closing of school by board

162. A public school board and a separate school board may enter into an agreement in respect of the provision of education in a public or separate school under the jurisdiction of either board for pupils of the other board in a course or courses that are not available in a school under the jurisdiction of the board requiring the provision of education or that are considered by such board to be not readily accessible to the pupils in respect of whom the agreement is made where, Agreements for education of public and separate school pupils

- (a) the appropriate supervisory officer of the board providing education certifies that accommodation is available in such school for such pupils; and

- (b) the board requiring the provision of education pays for each such pupil a fee calculated in accordance with the regulations. 1974, c. 109, s. 159.

Secondary
school
agreements

163.—(1) The board of a secondary school district that is not a school division may, in lieu of establishing and maintaining a school, enter into an agreement with another secondary school board to provide for the instruction of its pupils in the schools under the jurisdiction of that board and for the payment in respect of such pupils of fees calculated in accordance with the regulations.

Agreements
for
education
at outside
schools

(2) A secondary school board that has established one or more secondary schools may enter into an agreement with another secondary school board to provide for the instruction, in the school or schools maintained by the latter board, of resident pupils of the first-mentioned board and for the payment in respect of such pupils of fees calculated in accordance with the regulations. 1974, c. 109, s. 160.

Agreements
re pupils in
federal
establish-
ments

164. A board may enter into an agreement with the Crown in right of Canada for such periods and under such conditions as are specified in the agreement whereby the board may provide for the education of pupils who reside on land held by the Crown in right of Canada in a school or schools operated by the board on land owned by the board or by the Crown in right of Canada. 1974, c. 109, s. 161.

Agreements
re accommoda-
tion for
Indian pupils

165.—(1) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide accommodation and tuition for the maximum number of Indian pupils agreed upon, and the fees therefor shall be calculated in accordance with the regulations.

Idem

(2) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide for a payment from the Crown in right of Canada to provide additional classroom accommodation and to provide tuition for a maximum of thirty-five Indian pupils for each additional classroom so provided, and the fees therefor shall be calculated in accordance with the regulations, but exclusive of expenditures for the erection of school buildings for instructional purposes and additions thereto.

Cost of
special
services

(3) A board shall not enter into an agreement under subsection (1) or (2) that requires the board to provide special services for Indian pupils that it does not provide for its resident pupils unless, in addition to the fees referred to in subsection (1) or (2), the cost of such services is payable by the Crown in right of Canada.

(4) Where a board has entered into one or more agreements under this section, the council of the Indian band, or the councils of the Indian bands, to which the Indian pupils, or a majority of the Indian pupils, who are, pursuant to the agreement or agreements, enrolled in the schools operated by the board, belong, may, subject to subsection (5), name one person to represent on the board the interests of the Indian pupils and, where a person is so named, the board shall, subject to subsection (6), appoint the person a member of the board, and the member so appointed shall be deemed to be an elected member of the board, except that,

Appointment
of representa-
tive of
Indian pupils

(a) where the agreement or agreements under this section are in respect of secondary school pupils only, the member so appointed is a trustee for secondary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect public schools exclusively; and

(b) where the agreement or agreements under this section are in respect of elementary school pupils only, the member so appointed is a trustee for elementary school purposes only and shall not vote on a motion or otherwise take part in any proceedings that affect secondary schools exclusively.

(5) Where the number of Indian pupils enrolled in the schools under the jurisdiction of a divisional board or a county or district combined separate school board pursuant to one or more agreements made under this section exceeds 25 per cent of the average daily enrolment in the schools of the board, two persons may be named under subsection (4), and subsection (4) applies with necessary modifications in respect of such persons.

Additional
representa-
tive

(6) Where the number of Indian pupils enrolled in the schools under the jurisdiction of the board pursuant to one or more such agreements is fewer than the lesser of 10 per cent of the average daily enrolment in the schools of the board and 100, the appointment under subsection (4) may be made at the discretion of the board.

Where
appointment
in discretion
of board

(7) Where the agreement is, or the agreements are, in respect of elementary school pupils only or secondary school pupils only, the enrolment referred to in subsections (5) and (6) shall be that of elementary school pupils only or secondary school pupils only, as the case may be.

Enrolment

(8) A member of the board appointed under subsection (4), (5) or (6) is in addition to the number of members of the board otherwise provided for in this Act and the term of office of such

Appointed
members in
addition to
elected
members

member terminates on the same date as the term of office of the elected members. 1974, c. 109, s. 162 (1-8).

Exception re
subss. (4-8)

(9) Where a regulation made under clause 69 (2) (a) provides for the appointment of one or more members to represent on the board the interests of Indian pupils, subsections (4) to (8) do not apply. 1976, c. 50, s. 24 (1).

Vacancy
in office

(10) Where the office of a member of a board appointed under this section becomes vacant for any reason, it shall be filled in accordance with subsection (4), and the person so appointed shall hold office for the remainder of the term of his predecessor. 1974, c. 109, s. 162 (9).

Repre-
sentative
of Indian
pupils on
Roman
Catholic
separate
school board
to be Roman
Catholic

(11) Where a person is chosen by a board to represent the interests of Indian pupils on a Roman Catholic separate school board, such person shall be a Roman Catholic and of the full age of eighteen years. 1976, c. 50, s. 24 (2).

Transportation

Transporta-
tion of
pupils

166.—(1) A board may provide for,

- (a) a resident pupil of the board who is enrolled in a school that the board operates or in a school operated by another board to which the board pays fees in respect of such pupil;
- (b) a pupil in respect of whom the Minister pays the cost of education under the regulations; and
- (c) a child over two years of age who may, under the regulations, be admitted to a program for hearing-handicapped children,

transportation to and from the school that the pupil attends and to and from an activity that is part of the program of such school. 1974, c. 109, s. 163 (1); 1976, c. 50, s. 25 (1).

Idem

(2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under the *Public Hospitals Act*, a facility designated under the *Developmental Services Act*, a psychiatric facility designated as such under the *Mental Health Act* and a children's mental health centre approved under the *Children's Mental Health Services Act*. 1980, c. 61, s. 19.

R.S.O. 1980,
cc. 410, 118,
262, 69

Idem

(3) A secondary school board may assist in the provision of transportation for children who are qualified to be resident

pupils of the board to and from a centre operated by a local association that is affiliated with the Ontario Association for the Mentally Retarded.

(4) For the purposes of this section, a board may purchase a vehicle either from current revenue or from a debenture issued for that purpose. Purchase of bus

(5) Subject to subsection (6), for the purposes of this section, a board may make an agreement or agreements for one school year or less with a corporation, commission or person for the transportation of such pupils. Agreements

(6) Where a board provides transportation for more than thirty pupils, the board may, with the approval of the Ontario Municipal Board, make an agreement for a term not exceeding five years for the transportation of such pupils. 1974, c. 109, s. 163 (3-6). Agreements not exceeding five years

(7) Where a pupil resides in a school section or separate school zone in a territorial district but not in a school division with his parent or guardian in a residence that is twenty-four kilometres or more by road or rail from a secondary school that he is eligible to attend, an elementary school board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends. 1974, c. 109, s. 163 (7); 1976, c. 50, s. 25 (2); 1978, c. 87, s. 15 (7). Boarding of secondary school pupils residing in territorial district

(8) Where a pupil resides in a territorial district but not in a school section, a separate school zone or a school division, with his parent or guardian in a residence that is twenty-four kilometres or more by road or rail from a secondary school that he is eligible to attend, the board of the secondary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends. 1974, c. 109, s. 163 (8); 1978, c. 87, s. 15 (8). Idem

(9) Where a pupil resides with his parent or guardian in a school division or a secondary school district in a residence that, Idem

(a) in a territorial district is twenty-four kilometres or more; or

(b) in a county is forty-eight kilometres or more,

by road or rail from a secondary school that he attends, or where a pupil resides with his parent or guardian on an island in a school division or a secondary school district the board of the school division or secondary school district of which he is a resident pupil may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends. 1976, c. 50, s. 25 (3); 1978, c. 87, s. 15 (9).

Boarding
and
transporta-
tion of
secondary
school
pupils in a
territorial
district
taking
"français"
subject

(10) Where a secondary school pupil resides in a territorial district in a school division with his parent or guardian in a residence that is twenty-four kilometres or more by road or rail from a secondary school in which the subject of French, taught as a subject for students who normally speak the French language, is offered as one of the subjects of the courses of study, an elementary school board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, when not so provided by the secondary school board, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends, or may furnish transportation for such pupil in lieu thereof. 1974, c. 109, s. 163 (10); 1978, c. 87, s. 15 (10).

Boarding of
elementary
school
pupils
residing in
territorial
districts

(11) Where a pupil resides in a territorial district but not in a school section or a separate school zone, with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the appropriate supervisory officer of the elementary school nearest such residence, the board of the elementary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

Boarding of
elementary
school pupils
where tran-
sportation
impractic-
able

(12) Where a pupil resides in a school section or a separate school zone with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the supervisory officer who has jurisdiction in the school section or the separate school zone, the board of the elementary school of which he is a resident pupil may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and

return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

(13) For the purpose of certifying attendance under sub-sections (7) to (12), the principal may add to the number of days of attendance of a pupil the number of days the pupil is excused from attendance under the regulations or is absent by reason of being ill or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. 1974, c. 109, s. 163 (11-13). Certification of attendance

Allowances

167.—(1) A board may pay to each member of the board for each month an allowance not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows: Allowance for members

<u>Enrolment</u>	<u>Maximum Monthly Allowance</u>
Fewer than 2,000.....	\$100
2,000 or more but fewer than 10,000.....	200
10,000 or more but fewer than 40,000.....	400
40,000 or more.....	600

(2) A board may pay to its chairman, in addition to any allowance that may be paid to him as a member, an additional allowance not exceeding one-half of the allowance that may be paid to him as a member. 1974, c. 109, s. 164 (1, 2). Chairman, additional allowance

(3) In respect of travel of a member of the board to and from his residence to attend a meeting of the board, or a committee thereof, that is held within the area of jurisdiction of the board, the board may, Travel expenses to attend board meetings

- (a) reimburse the member for his expenses necessarily incurred therefor or such lesser amount as may be determined by the board; or
- (b) pay the member an allowance at a rate per kilometre determined by the board. 1974, c. 109, s. 164 (3); 1978, c. 87, s. 15 (11).

Expenses for
authorized
travel on
board
business

(4) A board may authorize a member, teacher or official of the board to travel on designated business of the board, and may reimburse the member, teacher or official for his actual expenses incurred on business of the board, or such lesser amount as may be determined by the board.

Deduction
because of
absence

(5) A board may provide for a deduction of a reasonable amount from the allowance of a member because of absence from regular or committee meetings of the board.

Advisory
committee
members

(6) Subsections (3), (4) and (5) apply with necessary modifications to members of a committee established by the board who are not members of the board. 1974, c. 109, s. 164 (4-6).

Property

School
lands
granted
before
1850 vested
in board
for school
purposes

168.—(1) All lands that before the 24th day of July, 1850, were granted, devised or otherwise conveyed to any person or persons in trust for common school purposes and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in a public school board or a board of education having jurisdiction in the municipality in which the lands are situate, continue to be vested in such board, and continue to be held by it and its successors upon the like trusts and subject to the same conditions and for the estates upon or subject to or for which the lands are respectively held.

Property in
trust vested
in board

(2) All property heretofore granted or devised to, acquired by or vested in any person or corporation,

(a) for the secondary school purposes of a secondary school district or any part thereof; or

(b) for the separate school purposes in a separate school zone,

is vested in the board having jurisdiction in the secondary school district or separate school zone, as the case may be. 1974, c. 109, s. 165.

Possession
of property

169.—(1) A board may take possession of all property acquired or given for school purposes and hold and apply it according to the terms on which it was acquired or given.

Idem

(2) A separate school board has power to acquire and hold as a corporation, by any title whatsoever, land, movable

property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received.

(3) A board of education may appropriate any property acquired by it or in its possession or control for any of the purposes of the board but, where public school property is appropriated for secondary school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for public school purposes and, where secondary school property is appropriated for public school purposes, the value of the property so appropriated or the revenue derived therefrom shall be applied for secondary school purposes. 1974, c. 109, s. 166.

Appropriation of property

170.—(1) Lands originally granted or conveyed by the Crown for school purposes and held by a board may be leased, sold or otherwise disposed of with the approval of the Lieutenant Governor in Council and upon such conditions as to the investment or application of the proceeds or otherwise as may be prescribed in the order granting the approval.

Disposal of lands patented to boards for school purposes

(2) Where land, the use of which is restricted by deed in any manner to school purposes so as to appear that some other person may have an interest therein, has been vested in a board for at least fifty years, the board may apply to the Supreme Court to remove the restriction, and the Supreme Court may make such order on the application as it considers just including, where the land adjoins land being used as a farm, a requirement that the board shall, where the board intends to sell the land, first offer it at a reasonable price to the owner or owners of such adjoining land.

Application for removal of restrictions on use of school lands

(3) Subject to subsection (4), a board has power to sell, lease or otherwise dispose of any school site or part thereof or property of the board upon the adoption of a resolution that such site or part or property is not required for the purposes of the board, and the board shall apply the proceeds thereof for the purposes of the board and shall advise the Minister of the sale, conveyance or transfer, or of the lease where the term thereof exceeds one year, of any of its schools.

Lease or sale of site or property

(4) Notwithstanding any general or special Act, including *The Metropolitan Separate School Board Act, 1953*, a board shall not sell, lease or otherwise dispose of a building or part thereof other than to another board or demolish a building, unless, in addition to any other approval that may be required, the board has obtained the approval of the Minister.

Disposal of buildings 1953, c. 119

Exceptions

(5) Subsection (4) does not apply,

(a) to the use of a building or part thereof pursuant to an agreement under section 160; or

(b) where a building or part thereof is in use as a school, to the use of the building or part for any purpose that does not interfere with the proper conduct of the school. 1974, c. 109, s. 167.

Board may purchase or expropriate within its jurisdiction

171.—(1) Subject to the provisions of Part IV as to the selection of a site by a rural separate school board, every board may acquire, by purchase or lease, or may expropriate, a school site that is within its area of jurisdiction.

Purchase or lease of site in adjoining jurisdiction

(2) A public school board, board of education or secondary school board may, with the approval of the Minister, acquire by purchase or lease a school site in an adjoining school section or secondary school district, as the case may be, for the purpose of operating a school thereon, but the board shall not expropriate any such site.

Separate school board may purchase or expropriate within its designated area

(3) A county or district combined separate school board may acquire by purchase or lease, or may expropriate, a school site that is within the area designated in respect of such board by regulation made under subsection 105 (2) but that is not within the county or district combined separate school zone, for the purpose of operating a school thereon.

School outside designated area

(4) A county or district combined separate school board may, with the approval of the Minister, acquire by purchase or lease a school site that is outside the area designated in respect of such board by regulation made under subsection 105 (2) and may operate thereon a separate school, but a county or district combined separate school board shall not expropriate any such site.

Zone not established

(5) Notwithstanding section 80, the operation of a separate school on a school site acquired under subsection (4) does not, thereby, establish a separate school zone with a centre at such site.

Buildings on land owned by board

(6) Subject to section 172, a board may erect, add to or alter buildings for its purposes on land owned by the board.

Buildings on leased land

(7) A board may erect a school building on land that is leased by the board where the term of the lease, the school site and the plans of the school building are approved by the Minister.

(8) A board may, with the approval of the Minister, make ^{Additions or alterations} an addition, alteration or improvement to a school building that is acquired by the board under a lease. 1974, c. 109, s. 168.

172. Where a board plans to provide, other than by way ^{Agreement for multi-use building} of a lease, accommodation for pupils on a school site that is not to be occupied or used exclusively by the board, the board shall obtain the prior approval of the Minister to enter into negotiations with a person, other than a board or a municipality, in respect of the provision of such accommodation, and an agreement for such purposes may be entered into with such person only after the proposed agreement, the plans of the school and of the building of which it may be a part and the site have been approved by the Minister. 1974, c. 109, s. 169.

Out-of-Classroom Programs

173.—(1) A board may acquire by purchase or by lease ^{Agreements between boards} land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs as the board may direct, and for such purposes may, with the approval of the Minister, build and operate the necessary facilities.

(2) Two or more boards may enter into an agreement for a ^{Acquisition of land for natural science programs} specified period whereby one of the boards may acquire by purchase or by lease land in any municipality or territory without municipal organization in Ontario for the purpose of conducting a natural science program and other out-of-classroom programs and, for such purposes, such board may, with the approval of the Minister, build and operate the necessary facilities.

(3) All land acquired by a board under subsection (1) or (2), so ^{Taxation} long as it is held by the board and is not situated,

(a) within the jurisdiction of the board or within the jurisdiction of another board with which the board has entered into an agreement under subsection (2); or

(b) in the case of a separate school board, within the area designated in respect of such board by regulation made under subsection 105 (2),

is subject to taxation for municipal and school purposes in the municipality in which it is situate.

Agreements
with
conservation
authorities,
etc.

(4) A board may enter into an agreement with a conservation or other appropriate authority under which the board may, with the approval of the Minister, construct and maintain on lands owned by the authority the necessary facilities for the purpose of conducting a natural science program or other out-of-classroom program.

Idem

(5) A board that conducts a natural science, conservation or other out-of-classroom program may enter into an agreement with a conservation or other appropriate authority for the use of the facilities and personnel of such authority for the purpose of conducting such a program as directed by the board.

Idem

(6) One or more boards may enter into an agreement with a conservation or other appropriate authority to provide for the construction, furnishing and equipping by the authority on lands owned by the authority of facilities for the purposes of conducting a natural science, conservation or other out-of-classroom program as directed by the board or one or more of the boards and, where under the agreement a board is required to pay all or part of the cost of the facilities, the construction of the facilities shall be first approved by the Minister, and the amount paid therefor by the board shall be deemed to be an expenditure made by the board for a permanent improvement.

Board and
lodging for
courses in
conservation

(7) A board may provide or pay for board and lodging for a pupil for a period not exceeding two weeks in any year while he participates, with the consent of his parent or guardian and with the permission of the board, in a natural science, conservation or other out-of-classroom program. 1974, c. 109, s. 170.

Officers

Duties of
secretary

174.—(1) The secretary of a board is responsible for,

- (a) keeping a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose by the board and ensuring that the minutes when confirmed are signed by the chairman or presiding member;
- (b) transmitting to the Ministry copies of reports requested by the Ministry;

- (c) giving notice of all meetings of the board to each of the members by notifying him personally or in writing or by sending a written notice to his residence;
- (d) calling a special meeting of the board on the request in writing of the majority of the members of the board; and
- (e) performing such other duties as may be required of him by the regulations, by this Act or by the board.

(2) Every treasurer and collector of a board and, if required by the board, any other officer of a board shall give security for the faithful performance of his duties, and the security shall be deposited for safekeeping as directed by the board.

Security by
officers

(3) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company as defined in the *Guarantee Companies Securities Act*. 1974, c. 109, s. 171 (1-3).

Form of
security

R.S.O. 1980,
c. 192

(4) If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts moneys of the board and any of such moneys are forfeited or lost in consequence of the refusal or neglect, every member of the board is personally liable for such moneys, which may be recovered by the board or by any ratepayer assessed for the support of the school or schools under the jurisdiction of the board suing on behalf of himself and all other such ratepayers in a court of competent jurisdiction, but no member is liable if he proves that he made reasonable efforts to procure the taking of the security. 1974, c. 109, s. 171 (4); 1976, c. 50, s. 26 (1).

Failure to
take security

(5) Every treasurer of a board shall,

Duties of
treasurer

- (a) receive and account for all moneys of the board;
- (b) open an account or accounts in the name of the board in such of the chartered banks of Canada or in such other place of deposit as may be approved by the board;
- (c) deposit all moneys received by him on account of the board, and no other moneys, to the credit of such account or accounts;
- (d) disburse all moneys as directed by the board; and

- (e) produce, when required by the board or by auditors or other competent authority, all papers and moneys in his possession, power or control belonging to the board. 1974, c. 109, s. 171 (5); 1976, c. 50, s. 26 (2).

Business
adminis-
trator

(6) Where a board determines that one or more persons should be employed full time to carry out the duties of a secretary or treasurer or both, it may appoint one or more business administrators and one or more assistant business administrators and may assign to a person so appointed any of the duties of the secretary, treasurer and supervisor of maintenance of school buildings. 1974, c. 109, s. 171 (6).

Responsi-
bility of
officers

175. Every officer appointed by a board is responsible to the board through its chief executive officer for the performance of the duties assigned to him by the board. 1974, c. 109, s. 172.

School Board Advisory Committees

Interpre-
tation

176. In sections 177 to 181, "committee" means a school board advisory committee established under section 177. 1974, c. 109, s. 173.

Committee
establishment

177. A board of education, a county or district combined separate school board or the Metropolitan Separate School Board may establish a school board advisory committee. 1974, c. 109, s. 174.

Composition

178.—(1) The committee shall be composed of,

- (a) three members of the board appointed by the board;
- (b) the chief education officer of the board or his nominee;
- (c) six teachers employed by the board, appointed by the teachers in the employ of the board;
- (d) four persons appointed by the board who are neither teachers nor members of a board, but who are resident within the jurisdiction of the board; and
- (e) the persons appointed under subsections (2) and (3).

Separate
school board

(2) In the case of a separate school board,

- (a) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations

of Ontario organized in the area of jurisdiction of the board so recommend, the board shall appoint to the committee one person selected by the Council or Councils;

(b) where the Federation des Associations de Parents et Instituteurs de langue française de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(c) where no recommendation and appointment is made under clause (a), a recommendation and appointment of two persons may be made under clause (b) and, where no recommendation and appointment is made under clause (b), a recommendation and appointment of two persons may be made under clause (a).

(3) In the case of a board of education,

Board of
education

(a) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations of Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council or Councils;

(b) where the Home and School Council organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council;

(c) where the Federation des Associations de Parents et Instituteurs de langue française de l'Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint one person selected by the regional section and, where there is no regional section, by the local section of such Federation; and

(d) where no appointment is made under any two of clause (a), (b) or (c), two members may be appointed under the remaining clause. 1974, c. 109, s. 175 (1-3).

(4) The teachers shall submit to the board, not later than the ^{Notice of} 31st day of December in each year, the names of the appointees ^{teacher} appointees under clause (1) (c). 1974, c. 109, s. 175 (4); 1978, c. 44, s. 15 (1).

Appointment
and term of
office

(5) Members of the committee shall be appointed on or before the 31st day of December in each year and shall hold office for one year. 1974, c. 109, s. 175 (5); 1978, c. 44, s. 15 (2).

Reappoint-
ment

(6) Except for the chief education officer, a member of the committee shall not hold office for more than three years in succession.

Vacancies

(7) Every vacancy on a committee occasioned by the death or resignation of a member, or by any other cause, shall be filled by a person qualified under subsection (1) and appointed by the body or person that appointed the member whose office has become vacant, and every person so appointed shall hold office for the unexpired portion of the term of such member. 1974, c. 109, s. 175 (6, 7).

First meeting

179.—(1) The chairman of the board shall call the first meeting of the committee not later than the 31st day of January in each year, and shall preside at such meeting until the chairman of the committee is elected. 1974, c. 109, s. 176 (1); 1978, c. 44, s. 16.

Chairman

(2) The chairman of the committee shall be elected by the committee at its first meeting in each year.

Quorum

(3) Eight members of the committee constitute a quorum and a vote of the majority of the members present is necessary to bind the committee.

Sub-
committees

(4) The committee may establish such sub-committees as it considers necessary. 1974, c. 109, s. 176 (2-4).

Recording
secretary

180.—(1) The board shall provide a recording secretary for the committee.

Budget

(2) The committee shall, as required by the board, submit to the board for approval a budget of its estimated expenditures for the calendar year.

Expenditures

(3) The board shall pay such expenditures of the committee as are approved by the board. 1974, c. 109, s. 177.

Powers of
committee

181.—(1) The committee may make reports and recommendations to the board in respect of any educational matter pertaining to the schools under the jurisdiction of the board.

Limitation

(2) Notwithstanding subsection (1), the committee shall not concern itself with salaries of employees of the board or with

matters pertaining to personnel problems and policies relating to personnel.

(3) The board shall consider any report or recommendation submitted to it by the committee and shall not refuse its approval without having given the committee, or its representatives, an opportunity to be heard by the board. 1974, c. 109, s. 178.

Consideration of reports

Special Education Advisory Committee

182.—(1) In this section,

Interpretation

- (a) “board” means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) “committee” means a special education advisory committee;
- (c) “local association” means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

(2) Every board shall, subject to subsection (6), establish a special educational advisory committee that shall consist of,

Advisory committee

- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
- (b) where the board provides a French-language instructional unit as defined in clause 260 (c), one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;
- (c) where the board provides English-language schools or classes under sections 258 and 272, one or more members who are English-speaking appointed by the board as

representative of the English-speaking ratepayers or supporters of the board; and

- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses (a), (b), (c) and (d), the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

Idem

- (3) Each of the persons appointed under subsection (2) who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized.

Application
of s. 206

- (4) Section 206 applies with necessary modifications to a member of a committee established under subsection (2).

Members
of
committee

- (5) One of the members of a committee appointed by a board of education under clause (2) (d) shall be a member of the board of education elected by separate school electors.

Local
associations

- (6) A board that establishes a committee under subsection (2) shall select as one of the local associations for the purposes of clause (2) (a) a local association as defined in clause 71 (1) (c).

Requirements
for advisory
committee

- (7) An advisory committee on schools for trainable retarded pupils, established under subsection 74 (1), shall satisfy the requirements for a committee under this section where,

- (a) a representative from each of the local associations, not to exceed twelve, and none of which is a local association as defined in clause 71 (1) (c), is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause (2) (b) or (c) where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members appointed under clause 74 (4) (b) is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection (8).

(8) A committee established under subsection (2) may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board. Recommendations

(9) Subsections 74 (7) and (8), section 75 and section 76 apply with necessary modifications to a committee established under subsection (2). Application of ss. 74 (7, 8), 75 and 76

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board shall appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board. Members of committee

(11) For the purposes of subsections (2) and (7), where there are more than twelve local associations in the area of jurisdiction of the board, the board shall select the twelve local associations that shall be represented. 1980, c. 61, s. 20. Selection by board

Access to Meetings and Records

183.—(1) The meetings of a board and meetings of a committee of the board, including a committee of the whole board, shall be open to the public except where a board determines that certain meetings of a committee of the board, including a committee of the whole board, shall not be open to the public, and no person shall be excluded from a meeting that is open to the public except for improper conduct. Open meetings of boards

(2) The presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. Exclusion of persons

(3) Any person may, at all reasonable hours, at the head office of the board inspect the minute book, the audited annual financial report and the current accounts of a board, and, upon the written request of any person and upon the payment to the board at the rate of 25 cents for every 100 words or at such lower rate as the board may fix, the secretary shall furnish copies of them or extracts therefrom certified under his hand. 1974, c. 109, s. 179. Inspection of books and accounts

Board Meetings

When board
deemed
constituted

184.—(1) A board shall be deemed to be constituted when a majority of the members to be elected or appointed has been elected or appointed. 1974, c. 109, s. 180 (1).

First
meeting
R.S.O. 1980,
c. 308

(2) A board that is elected at a regular election under the *Municipal Elections Act* and a board that is appointed or elected other than at a regular election under the *Municipal Elections Act* shall hold its first meeting not later than seven days after the day on which the term of office of the board commences on such date and at such time and place as the board determines and, failing such determination, at 8 p.m. at the head office of the board on the first Wednesday following the commencement of the term of office. 1978, c. 44, s. 17 (1).

Supervisory
officer may
provide for
calling first
meeting

(3) Notwithstanding subsection (2), on the petition of a majority of the members of a newly elected or appointed board, the appropriate supervisory officer may provide for calling the first meeting of the board at some other time and date. 1974, c. 109, s. 180 (3).

Presiding
officer

(4) At the first meeting in December of each year, the chief executive officer shall preside until the election of the chairman or, if there is no chief executive officer or in his absence, the members present shall designate who shall preside at the election of the chairman and if a member of the board is so designated, he may vote at the election of the chairman. 1974, c. 109, s. 180 (4); 1978, c. 44, s. 17 (2).

Election of
chairman

(5) At the first meeting in December of each year and at the first meeting after a vacancy occurs in the office of chairman, the members shall elect one of themselves to be chairman, and the chairman shall preside at all meetings. 1974, c. 109, s. 180 (5); 1978, c. 44, s. 17 (3).

Subsequent
meetings

(6) Subsequent meetings of the board shall be held at such time and place as the board considers expedient.

Vice-
chairman

(7) The members of the board may also elect one of themselves to be vice-chairman and he shall preside in the absence of the chairman.

Where
equality of
votes

(8) In the case of an equality of votes at the election of a chairman or vice-chairman, the candidates shall draw lots to fill the position of chairman or vice-chairman, as the case may be.

(9) If at any meeting there is no chairman or vice-chairman present, the members present may elect one of themselves to be chairman for that meeting. Temporary chairman

(10) In the absence of the secretary from any meeting, the chairman or other member presiding may appoint any member or other person to act as secretary for that meeting. Temporary secretary

(11) The presence of a majority of all the members constituting a board is necessary to form a quorum, except that when a board of education is dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board of education by the public school electors is necessary to form a quorum. Quorum

(12) Subject to subsection 55 (4), the presiding officer, except where he is the chief executive officer of the board and is not a member, may vote with the other members of the board upon all motions, and any motion on which there is an equality of votes is lost. Chairman, voting; equality of votes

(13) Special meetings of the board may be called by the chairman and in such other manner as the board may determine. 1974, c. 109, s. 180 (6-13). Special meetings

185.—(1) Except as provided in subsection (2), every person elected or appointed to a board, on or before the day fixed for the first meeting of the new board, or on or before the day of the first meeting that he attends, shall make and subscribe the following declaration before the secretary of the board or before any person authorized to administer an oath and in default he shall be deemed to have resigned: Declaration

DECLARATION

I, *A.B.*, do solemnly declare that:

- 1. I am not disqualified under any Act from being a member of (*name of board*).
- 2. I will truly, faithfully, impartially and to the best of my ability execute the office of trustee, and that I have not received and will not receive any payment or reward or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office.

Declared before me at
..... in the
County or District of
..... this
..... day of
....., 19..

}

A.B.

Idem

(2) Where a person is elected or appointed to fill a vacancy on a board, he shall make such declaration on or before the day fixed for holding the first meeting of the board after his election or appointment or on or before the day of the first meeting that he attends and in default he shall be deemed to have resigned.

Oath of allegiance

(3) Every person elected or appointed to a board, before entering on his duties as a trustee, shall take and subscribe before the secretary of the board or before any person authorized to administer an oath the oath of allegiance in the following form:

I,.....*A.B.*....., do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me at	}	<i>A.B.</i>
.....in the		
County or District of		
.....this		
.....day of		
....., 19..		

Filing of declaration and oath

(4) The declaration and oath of allegiance shall be filed with the secretary of the board within eight days after the making or taking thereof, as the case may be. 1974, c. 109, s. 181.

Arbitrators

Arbitrators to send copy of award to board, etc.

186.—(1) Arbitrators acting under this Act shall send a copy of their award forthwith after the making thereof to the chief executive officer of the board and to the clerk of each municipality affected.

Liability of parties for costs

(2) Such arbitrators shall determine the costs of the arbitration and shall direct to whom and by whom and in what manner such costs or any part thereof, and the fees under subsection (4), shall be paid, and such determination and direction is final. 1974, c. 109, s. 182 (1, 2).

Expenses

(3) An arbitrator is entitled to an allowance of 10 cents for each kilometre necessarily travelled by him to and from his residence to attend meetings of arbitrators together with his actual expenses for room and meals, incurred while attending such meetings, and such costs shall be included in the costs of the arbitration. 1974, c. 109, s. 182 (3); 1978, c. 87, s. 15 (12).

Fees

(4) Each arbitrator, shall be paid a fee,

(a) in the case of the Ontario Municipal Board, as determined by the Board;

(b) in the case of an arbitrator other than a supervisory officer, judge or member of the Ontario Municipal Board, at the rate of \$20 for each sitting of a half-day or fraction thereof.

(5) This section does not apply to a Board of Reference or ^{Application} the members thereof.

(6) This section, except subsection (4), applies to treasurers ^{Application to treasurers} of municipalities who meet to arbitrate the apportionment of costs within a school division. 1974, c. 109, s. 182 (4-6).

Offences and Penalties

187. Every person who wilfully makes a false statement in a ^{False declaration} declaration required to be made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$100. 1974, c. 109, s. 183.

188.—(1) Every person who wilfully interrupts or disquiets ^{Disturbances} the proceedings of a school or class is guilty of an offence and on conviction is liable to a fine of not more than \$100.

(2) Every person who, with intent to prevent the discussion of ^{Idem} any matter or the passing of any motion at a meeting of a board, or a committee of a board including a committee of the whole board disrupts or endeavours to disturb or interrupt the meeting after having been expelled or excluded from the meeting is guilty of an offence and on conviction is liable to a fine of not more than \$100. 1974, c. 109, s. 184.

189.—(1) Every member of a board who sits or votes at any ^{Acting while disqualified} meeting of the board after becoming disqualified from sitting is guilty of an offence and on conviction is liable to a fine of not more than \$100 for every meeting at which he so sits or votes.

(2) Every member of a board who knowingly signs a false ^{False reports and registers} report and every teacher who keeps a false school register or makes a false return is guilty of an offence and on conviction is liable to a fine of not more than \$100. 1974, c. 109, s. 185.

190. Every member of a board and every officer thereof who, ^{Information to auditors}

(a) withholds from the auditor access, at all reasonable hours, to the books, records, documents and vouchers of the board; or

(b) refuses or neglects to provide such information and explanations as the auditor may require,

is guilty of an offence and on conviction is liable to a fine of not more than \$100, but no person is liable if he proves that he has made reasonable efforts to procure the furnishing of the papers or information. 1974, c. 109, s. 186.

Delivery up
of books and
money

191.—(1) A person who holds or has held the office of treasurer, secretary or secretary-treasurer, and a member or other person who has in his possession any book, paper, chattel or money that came into his possession as such treasurer, secretary, secretary-treasurer, member or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same to the person and in the manner directed by the board or by other competent authority.

Summons for
appearance

(2) Upon application to the judge by the board, supported by affidavit, showing such wrongful withholding or refusal, the judge may summon the treasurer, secretary, secretary-treasurer, member or person to appear before him at a time and place appointed by him.

Service of
summons

(3) A bailiff of a small claims court, upon being required so to do by the judge, shall serve the summons or a true copy thereof on the person complained against personally or by leaving it with a person apparently not under the age of sixteen years.

Order to
account

(4) At the time and place so appointed, the judge, if satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of the opinion that it is well founded may order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow.

Other remedy
not affected

(5) Such proceedings do not impair or affect any other remedy that the board or other competent authority may have against the person complained against or against any other person. 1974, c. 109, s. 187.

Compelling
delivery of
books, money,
etc., on
dissolution
of school
board

192.—(1) Section 191 applies to the case of any person who has in his possession any books, paper, chattel or money that came into his possession as secretary or treasurer, or member, or otherwise, of a board that has been dissolved, and every such person shall deliver up, account for and pay over every such book, paper, chattel and all such money as provided in this Act and failing any such provision, as directed by the Minister, and in default thereof, proceedings may be taken against the person by two ratepayers in the same manner as in the case provided for by section 191 and that section applies with necessary modifications.

(2) Subsection (1) applies to every person who has received from such secretary, treasurer, member or other person any book, paper, chattel or money, which by subsection (1) it is declared to be the duty of such secretary, treasurer, member or other person to deliver up, and the like proceedings may be taken against such first-mentioned person. 1974, c. 109, s. 188.

Application
of subs. (1)

193.—(1) No teacher, supervisory officer or other employee of a board or of the Ministry shall, for compensation of any kind other than his salary as such employee, promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein.

Promotion or
sale of books,
etc., by
employees of
board or
Ministry to
board,
pupil, etc.,
prohibited

(2) Subsection (1) does not apply to a teacher, supervisory officer or any other employee in respect of a book or other teaching or learning materials of which he is an author where the only compensation that he receives in respect thereof is a fee or royalty thereon.

Exception for
authors

(3) No person or organization or agent thereof shall employ a teacher, supervisory officer or other employee of a board or of the Ministry to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any board, provincial school or teachers' college, or to any pupil enrolled therein, or shall, directly or indirectly, give or pay compensation to any such teacher, supervisory officer or employee for such purpose.

Employment
of employee
of board or
Ministry to
promote sale
of books, etc.,
to board,
pupil, etc.,
prohibited

(4) Every person who contravenes any provision of subsection (1) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$500. 1974, c. 109, s. 189.

Penalty

Validity of Elections

194.—(1) Any person entitled to vote at the election of members of a board may commence an action by writ in the county or district court in the county or district in which the head office of the board is situate for a declaration that the office of a member of such board has become vacant under section 115, 185, 196, 197 or 206.

Action for
declaration
that seat
vacant

(2) No action shall be commenced under this section more than ninety days after the facts alleged to cause the vacancy in the board came to the knowledge of the person bringing such action.

Time for
bringing
action

(3) Where in an action under this section the court finds that the office of a member of the board has become vacant,

Power of
court

the court may order that the member be removed from office and declare that the office is vacant. 1974, c. 109, s. 190 (1-3).

Application of
R.S.O. 1980,
c. 308

(4) The provisions of sections 107 to 110 and 114 of the *Municipal Elections Act* apply with necessary modifications to an action brought under this section. 1974, c. 109, s. 190 (4); 1978, c. 44, s. 18 (1).

Joining of
claims
R.S.O. 1980,
c. 308

(5) A claim in an action under this section may be joined with a claim in an action under section 106 of the *Municipal Elections Act*, and such claim may be heard and disposed of in the same action. 1974, c. 109, s. 190 (5); 1978, c. 44, s. 18 (2).

Validity of
elections
and corrupt
practices

(6) The provisions of the *Municipal Elections Act* in respect of the validity of elections and corrupt practices apply to an election of trustees that is not conducted under the *Municipal Elections Act*. 1974, c. 109, s. 190 (6); 1978, c. 44, s. 25.

PART VII

BOARD MEMBERS—QUALIFICATIONS, RESIGNATIONS AND VACANCIES

Employee
disqualified

195. An employee of a board is not eligible to be elected a member of the board by which he is employed or entitled to sit or vote thereon. 1974, c. 109, s. 191.

Qualifications
of members

196.—(1) A person is qualified to be elected as a member of a board if he is,

- (a) a Canadian citizen;
- (b) of the full age of eighteen years;
- (c) a resident within the area of jurisdiction of the board; and
- (d) in the case of,
 - (i) a public school board, a public school elector,
 - (ii) a Roman Catholic separate school board, a separate school elector,
 - (iii) a member of a board of education to be elected by public school electors, a public school elector, and
 - (iv) a member of a board of education to be elected by separate school electors, a separate school elector.

(2) A member of a board is eligible for re-election if otherwise qualified. 1974, c. 109, s. 192 (1, 2). Members eligible for re-election

(3) A person is not qualified to be elected or to act as a member of a board, Disqualification

(a) who is,

(i) a member of any other board, or

(ii) a member of the council or an elected member of a local board as defined in the *Municipal Affairs Act*, of a municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board, R.S.O. 1980, c. 303

and whose term of office has at least two months to run after the last day for filing nominations for a new election unless before the closing of nominations he has filed his resignation with the secretary of the other board or with the clerk of the municipality, as the case may be;

(b) who is the clerk or treasurer or deputy clerk or deputy treasurer of a county or municipality, including a metropolitan or regional municipality and The District Municipality of Muskoka, all or part of which is included in the area of jurisdiction of the board;

(c) who is a member of the Assembly or of the Senate or House of Commons of Canada; or

(d) who is otherwise ineligible or disqualified under this or any other Act. 1974, c. 109, s. 192 (3); 1976, c. 50, s. 27.

(4) A person is qualified to act as a member of a board during the term for which he was elected so long as he continues to hold the qualifications required for election as a member of the board and does not become disqualified under subsection (3). Qualification to act as member

(5) No person shall qualify himself as a candidate for more than one seat on a board, and any person who so qualifies himself and is elected to hold one or more seats on the board is not entitled to sit as a member of the board by reason of the election, and his seat or seats are thereby vacated. 1974, c. 109, s. 192 (4, 5). Person not to be candidate for more than one seat

197.—(1) The members of a board shall remain in office until their successors are elected and the new board is organized. Members to remain in office

Board not to
cease for
want of
members

(2) A board does not cease to exist by reason only of the lack of members.

Resignation
of members

(3) A member of a board, with the consent of a majority of the members present at a meeting, entered upon the minutes of it, may resign as a member, but he shall not vote on a motion as to his own resignation and may not resign as a member if his resignation will reduce the number of members of the board to less than a quorum. 1974, c. 109, s. 193 (1-3).

Resignation
to become
candidate
for some
other office

(4) Notwithstanding subsection (3), where it is necessary for a member of a board to resign to become a candidate for some other office, he may resign by filing his resignation, including a statement that he is resigning for the purpose of becoming a candidate for some other office, with the secretary of the board and the resignation shall become effective on the 30th day of November after it is so filed or the day preceding the day upon which the term of such office commences, whichever is the earlier. 1974, c. 109, s. 193 (4); 1978, c. 44, s. 19.

Vacancies on
public and
secondary
school
boards

198.—(1) Subject to section 202, where, in respect of a board, the office of a member elected by public school electors, except a board composed of three members, becomes vacant from any cause before the expiration of the term for which he was elected and,

- (a) the remaining members elected by public school electors constitute a majority of the members of the board elected by public school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or
- (b) there are no remaining members elected by public school electors or the remaining members elected by public school electors do not constitute a majority of the members elected by public school electors, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor.

Vacancy in
office of
member
elected by
separate
school
electors

(2) Subject to section 202, where, in respect of a board of education, the office of a member elected by separate school electors becomes vacant from any cause before the expiration of the term for which he was elected, and,

- (a) the remaining members elected by separate school electors constitute a majority of the members elected by separate school electors, a majority of such remaining members shall at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or

(b) there are no remaining members elected by separate school electors or the remaining members elected by separate school electors are not a majority of the members elected by separate school electors, the vacancy shall be filled by appointment by the board of the separate school zone that had the highest average daily enrolment for the preceding year of pupils below the third year of the Intermediate Division who resided in the school division, as certified by the appropriate supervisory officer,

and the person so appointed shall hold office for the remainder of the term of his predecessor.

(3) Subject to section 202 and notwithstanding subsection (2), where the offices of all members of a board of education become vacant from any cause, a new election shall be held to fill all such vacancies, and the members so elected shall hold office for the remainder of the term of their predecessors. 1974, c. 109, s. 194 (1-3).

All offices
vacant

(4) Notwithstanding subsections (1) to (3) and section 200, where the elections of a board are held under the *Municipal Elections Act*, and a vacancy occurs on the board on or before the 31st day of March of an election year, the board may, by resolution, require that an election be held to fill the vacancy, in which case the secretary of the board shall forthwith send to the clerk of the appropriate municipality a certified copy of the resolution, and the provisions of that Act that pertain to an election to fill a vacancy apply. 1978, c. 44, s. 20.

Where
election held
to fill a
vacancy
R.S.O. 1980,
c. 308

199.—(1) Where a vacancy occurs from any cause in the office of a member of a district school area board composed of only three members, the remaining members shall forthwith hold a new election to fill the vacancy in the manner provided for holding the election of the board, and the person elected shall hold office for the remainder of the term of his predecessor.

Vacancies on
board of
district
school area

(2) If at any time there are no remaining members, or only one remaining member, of the board of a district school area, any two electors of the district school area, or the appropriate supervisory officer, by giving six days notice posted up in at least three public places in the district school area, may call a meeting of the electors who shall elect three or two members, as the case may be, in the manner provided in subsection (1). 1974, c. 109, s. 195.

Where one
trustee or no
trustee

200. Subject to section 202, where the office of a trustee of a separate school board, other than a rural separate school board, becomes vacant from any cause before the expiration of the term for which he was elected and,

Vacancy on
separate
school board
other than
rural

- (a) the remaining members constitute a majority of the membership of the board, a majority of the remaining members shall, at the first regular meeting after the vacancy occurs, appoint a qualified person to fill the vacancy; or
- (b) there are no remaining members or the remaining members do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancy or vacancies,

and every member so appointed or elected shall hold office for the remainder of the term of his predecessor. 1974, c. 109, s. 196.

Vacancy on
rural
separate
school board

201.—(1) Where a vacancy occurs from any cause in the office of a trustee,

- (a) of a rural separate school before the trustees become a body corporate; or
- (b) of a rural separate school board,

the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the remainder of the term of his predecessor.

Proceedings
at new
election

(2) The new election shall be conducted in the same manner and is subject to the same provisions as for an election of the whole board. 1974, c. 109, s. 197.

Vacancy on
board

202. Where a vacancy occurs on a board,

- (a) within one month before the next ensuing election, it shall not be filled; or
- (b) after the election, but before the new board is organized, it shall be filled immediately after the new board is organized in the same manner as for a vacancy that occurs after the board is organized. 1974, c. 109, s. 198.

Election to
fill vacancy

R.S.O. 1980,
c. 308

203. Where an election is required to fill a vacancy on a board that is composed of more than three members and whose elections are not conducted under the *Municipal Elections Act*, the nomination shall be held on the third Monday following the day on which the office becomes vacant and the polling shall be held on the second Monday following the day of nomination, and the nomination and polling shall be held in the same manner and at the same times as for the office that became vacant. 1974, c. 109, s. 199; 1978, c. 44, s. 21.

204. Where the appropriate supervisory officer reports that no persons duly qualified are available or that the electors have failed to elect members of a district school area board, the Minister may appoint as members of the board such persons as he may consider proper, and the persons so appointed have, during the term of such appointment, all the authority of a board as though they were eligible and duly elected according to this Act. 1974, c. 109, s. 200.

Appointment
of trustees
on failure of
qualified
person

205. When, at a regular meeting of a board or at a special meeting called to fill a vacancy or vacancies on a district school area board, two or more candidates for office receive an equal number of votes, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates is elected. 1974, c. 109, s. 201.

When tie
vote for
vacancy on
board

206.—(1) If a member of a board is convicted of an indictable offence, or becomes mentally ill, or absents himself without being authorized by resolution entered in the minutes, from three consecutive regular meetings of the board, or ceases to hold the qualifications required to act as a member of the board or becomes disqualified under subsection 196 (3), he thereby vacates his seat, and the provisions of this Act with respect to the filling of vacancies apply.

Seat vacated
by conviction

(2) Notwithstanding subsection (1), where a member of a board is convicted of an indictable offence, the vacancy shall not be filled until the time for taking any appeal that may be taken from the conviction has elapsed, or until the final determination of any appeal so taken, and in the event of the quashing of the conviction the seat shall be deemed not to have been vacated. 1974, c. 109, s. 202.

Proviso

PART VIII

FINANCE

207.—(1) Every board shall appoint an auditor who shall be a person licensed by the Ministry of Intergovernmental Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the board.

Appointment
and dismissal
of auditor

(2) No person shall be appointed as an auditor of a board who is or during the preceding year was a member of the board or who has or during the preceding year had any

Disqualifi-
cation of
auditor

direct or indirect interest in any contract or any employment with the board other than for services within his professional capacity, and every auditor, upon appointment, shall make and subscribe a declaration to that effect.

Duties of
auditor

(3) An auditor of a board shall perform such duties as are prescribed by the Minister and by the Minister of Intergovernmental Affairs and also such duties as may be required by the board that do not conflict with the duties prescribed by the Minister and by the Minister of Intergovernmental Affairs.

Rights of
auditor

(4) An auditor of a board has the right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the board and is entitled to require from the members and officers of the board such information and explanation as in his opinion may be necessary to enable him to carry out his duties.

Auditor may
take
evidence

(5) An auditor of a board may require any person to give evidence on oath touching on any such matters, and for such purpose has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Auditor may
attend
meetings

(6) An auditor of a board is entitled to attend any meeting of the board or of a committee thereof and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Publication
of financial
statements

(7) The treasurer of every board in every year shall, within one month after receiving the auditor's report on the financial statements of the board, cause to be published or to be mailed or delivered to each ratepayer a copy of the financial statements of the board for the preceding year in such form as the Minister may prescribe, together with a copy of the report of the auditor.

Idem

(8) Where in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection (7) cause to be included with such notice the copy or summary and the report.

Filing of
financial
statements

(9) The treasurer of every board in every year shall prepare the financial statements of the board and, upon receiving the auditor's report thereon, shall forthwith submit two copies

of the financial statements together with a copy of the auditor's report to the Ministry. 1974, c. 109, s. 203 (2-10).

208.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a divisional board for permanent improvements may be raised by the issue of debentures by the divisional board in the manner provided for the issue of municipal debentures in the *Municipal Act*, and for the purposes of this section the duties imposed and powers conferred under the *Municipal Act* regarding the issuing of debentures and the use of moneys received from the sale or hypothecation of debentures, upon the Corporation, the head of council and the treasurer respectively are imposed and conferred upon the divisional board, the chairman of the divisional board and the treasurer of the divisional board respectively.

Debentures

R.S.O. 1980,
c. 308

(2) The power conferred on a divisional board to issue debentures includes, pending the sale of debentures, the power to agree with a chartered bank or a person for temporary advances from time to time to meet expenditures incurred up to the total of the amount of the debentures authorized by the Ontario Municipal Board and any further amount that has been authorized by the Ontario Municipal Board.

Temporary
advances
pending sale
of debentures

(3) The clerk-treasurer or treasurer of each county and municipality in which a divisional board has jurisdiction shall notify the treasurer of the divisional board before the 1st day of January in each year of the amount of the principal and interest due and payable in that year in respect of debentures issued for school purposes by such county or municipality and the dates on which payments are due.

Notification
of debt
charges

(4) The treasurer of the divisional board shall pay to every county and municipality on or before the due date of payment the amount of the principal and interest as notified under subsection (3).

Payment of
debt charges
for
debentures
not issued
by the
board

(5) The council of each municipality, except a municipality in a school division, shall withhold from the amount levied and collected for a board sufficient funds to meet the annual debt charges payable in the current year by the municipality in respect of debentures issued for the purposes of the board.

Withholding
from
debenture
levy

(6) Where the debt charges payable by a municipality referred to in subsection (5) on behalf of a board are more than the amount levied by the municipality for the cost of operation of the board, the board shall make a payment equal to the deficiency to the municipality on or before the date or dates on which the debt charges are payable. 1974, c. 109, s. 204.

Deficiency
payable by
board

209.—(1) Every divisional board in each year shall prepare and adopt estimates of all sums required during the year

Estimates

for public school purposes and for secondary school purposes respectively, and such estimates,

- (a) shall set forth the estimated revenues and expenditures of the board including debt charges payable by the divisional board or on its behalf by the council of a municipality or a county;
- (b) shall make due allowance for a surplus of any previous year that will be available during the current year;
- (c) shall provide for any deficit of any previous year;
- (d) may provide for expenditures for permanent improvements and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii and iii of paragraph 34 of subsection 1 (1) and any sum allocated to a reserve fund do not exceed,
 - (i) for secondary school purposes, an amount that would increase the sum that would be required to be raised by levy for secondary school purposes in the school division if no such provision for expenditures and allocation were made, by an amount calculated at one mill in the dollar upon the total of the equalized assessments of the municipalities and localities in the school division, and
 - (ii) for public school purposes, an amount that would increase the sum that would be required to be raised by levy for public school purposes in the school division if no such provision for expenditures and allocation were made, by an amount calculated at one mill in the dollar upon the total of the equalized assessments of the property rateable for public school purposes in the municipalities and localities in the school division; and
- (e) may provide for a reserve for working funds of a sum not in excess of 5 per cent of the expenditures of the board for the preceding year, but, where the sum accumulated in the reserve is equal to or more than 20 per cent of such expenditures, no further sum shall be provided,

and shall submit to the council of each municipality all or part of which is in the school division on or before the 1st day of March in each year a statement indicating the amount of the estimates for public school purposes and for secondary

school purposes to be raised by each council and a requisition of the amount of the estimates for public school purposes and for secondary school purposes required to be raised by the council in respect of the municipality or part thereof. 1974, c. 109, s. 205 (1); 1979, c. 99, s. 2.

(2) In subsection (1), "equalized assessment" for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the estimates are adopted as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister. 1974, c. 109, s. 205 (2).

Interpretation

(3) The cost of operation of schools for trainable-retarded children shall be included in the estimates of the divisional board for secondary school purposes under subsection (1) for,

Cost to be included in estimates

(a) where there is no designation by the Lieutenant Governor in Council under clause (b), the years 1981, 1982, 1983 and 1984 and commencing with the year 1985 and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection (1); or

(b) where there is a designation by the Lieutenant Governor in Council, the year 1981 and such year or years as may be designated by the Lieutenant Governor in Council and commencing with the year designated by the Lieutenant Governor in Council and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection (1). 1974, c. 109, s. 205 (3); 1980, c. 61, s. 21.

(4) The limitation on the sum that a board may allocate to a reserve fund under clause (1) (d) does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements.

Reserve fund limitation exception

(5) The limitation on the sum that a board may include in its estimates for permanent improvements under clause (1) (d) does not apply to revenue received by a board in any year from the sale or disposal of, or insurance proceeds in respect of, permanent improvements or to an expenditure from a reserve fund for the purpose for which such fund was established or to the portion of an expenditure for a permanent improvement receivable by way of a grant under section 9 of the *Community Recreation Centres Act* or receivable from a municipality pursuant to an agreement under section 160.

Idem

R.S.O. 1980, c. 80

(6) The moneys raised for, or held in, a reserve fund by a board shall not be expended, pledged or applied to any purpose other

Expenditure of reserve fund moneys

R.S.O. 1980,
c. 302

than that for which the fund was established without the approval of the Minister and subsection 165 (4) of the *Municipal Act* does not apply to such moneys.

Where
estimates
submitted
after
March 1st

(7) Where, in any year, a divisional board is unable to submit the statement and requisition required under subsection (1) to the council of each municipality in the school division on or before the 1st day of March, the later submission thereof does not relieve the council of its duty under subsection 215 (1) to levy and collect the amount required by the divisional board.

Where cost
of separate
levy payable
by divisional
board

(8) Where, in any year, the council of a municipality is required, by reason of receiving the requisition of a divisional board under subsection (1) after the 1st day of March, to levy the amount required by the divisional board by a separate levy from the amount levied for municipal purposes, the divisional board, on the request of the treasurer of the municipality, shall pay to the treasurer the cost of levying the amount required by the divisional board.

Requirement
re estimates
R.S.O. 1980,
c. 302

(9) Subsection 164 (5) of the *Municipal Act* does not apply to divisional boards.

Application
to board of
education
R.S.O. 1980,
c. 314

(10) Except where inconsistent with the provisions of the *Municipality of Metropolitan Toronto Act*, this section applies, with necessary modifications, to a board of education for an area municipality under such Act.

Application
to public
school board

(11) The provisions of this section that apply in respect of the public school purposes of a divisional board apply to a public school board.

Application
to secondary
school board

(12) The provisions of this section that apply in respect of the secondary school purposes of a divisional board apply to a secondary school board. 1974, c. 109, s. 205 (4-12).

Limitation

210.—(1) This section does not apply to The Metropolitan Toronto School Board or to a board of education in The Municipality of Metropolitan Toronto.

Moneys raised
locally not
spent for
salaries
because of
strike or
lock-out to
be used to
reduce taxes

(2) Where, in any year, any moneys that were provided in the estimates of a board for payment of salaries and wages of teachers and other employees in relation to employment in that year are not paid by reason of a strike by or lock-out of such teachers and other employees, or any of them, an amount of money calculated in accordance with the regulations shall in that year be placed in a reserve, and the estimates of the board for the next following year shall make due allowance for the amount in the reserve to reduce the sum that would otherwise be required for such following year for public, secondary or separate school purposes, as the case may be.

(3) When in any year a board submits to a municipality a requisition of the amount of the board's estimates for public or secondary school purposes to be raised by that municipality or the rates required for separate school purposes in that municipality, the board shall also submit a statement setting out,

Statement

- (a) the amount of money placed in a reserve for which due allowance is made under subsection (2) in that year;
- (b) where estimates of the board for that year exclude an amount of money that would normally be paid as salaries and wages of teachers and other employees and that was not paid in that year because of a strike or lock-out of such teachers and other employees, or any of them, that occurred prior to the adoption of the estimates in that year, the amount of money calculated in accordance with the regulations; and
- (c) the portion of the amounts set out pursuant to clauses (a) and (b) that is applied to reduce the sum required for that year to be raised by that municipality for public, secondary or separate school purposes, as the case may be.

(4) A collector of a municipality to which subsection (3) applies shall send with the notice of taxes to each ratepayer affected in that municipality a notice showing the amount of money applied to reduce the sum required to be raised in that municipality for public, secondary or separate school purposes and the effect of such reduction upon the mill rate.

Notice

(5) Where the collector of a municipality is required to send notices under subsection (4), the municipality shall be reimbursed by the board for the reasonable expenses incurred by that municipality for preparing and printing such notices.

Cost of
preparing
notices

(6) In the case of,

Board
providing
statements

- (a) each locality or part of territory without municipal organization that is within the area of jurisdiction of a board; and
- (b) a separate school board that appoints a collector under section 128,

the board shall provide the statements referred to in subsection (3) to the officer of the board who performs in the locality or part of territory without municipal organization the duties of a collector in a municipality, or to the collector appointed by the separate school board, as the case may be, and subsection (4) applies with necessary modifications to such officer or collector in respect of the municipality, locality, territory without municipal organization,

or part thereof, in which he collects taxes or rates. 1976, c. 50, s. 29, *part*.

Interpre-
tation

211.—(1) For the purposes of this section,

R.S.O. 1980,
c. 314

- (a) “area municipality” means an area municipality as defined in the *Municipality of Metropolitan Toronto Act*;
- (b) “board” means a board of education of an area municipality;
- (c) “Metropolitan Council” means the council of The Municipality of Metropolitan Toronto;
- (d) “School Board” means The Metropolitan Toronto School Board.

Moneys
raised not
spent for
salaries
because of
strike or
lock-out to
be used to
reduce taxes

(2) Where, in any year, any moneys that were provided in the estimates of the School Board for payment of salaries and wages of teachers and other employees in relation to employment in that year by a board or the School Board are not paid by reason of a strike by or lock-out of such teachers and other employees, or any of them, an amount of money calculated in accordance with the regulations shall in that year be placed in a reserve by the School Board, and the estimates of the School Board for the next following year shall make due allowance for the amount in the reserve to reduce the sum that would otherwise be required for such following year by the School Board for public or secondary school purposes, as the case may be.

Information

(3) Each board shall provide to the School Board, at the time required by the School Board, such information as the School Board may require for the purposes of subsection (2).

Adjustment
of monthly
instalments

(4) Where in any year the School Board has, by reason of the information given by a board pursuant to subsection (3), placed an amount of money in a reserve under subsection (2), it shall thereafter adjust in the manner determined by the School Board, one or more of the monthly instalments payable to such board in that year under subsection 131 (2) of the *Municipality of Metropolitan Toronto Act* so that the amount paid to the board for that year is reduced by the amount placed in the reserve.

Statement

(5) When in any year the School Board submits to the Metropolitan Council its estimates for public and secondary school purposes, the School Board shall also submit statements setting out for public and for secondary school purposes,

- (a) the amount of money placed in a reserve for which due allowance is made under subsection (2) in that year; and

- (b) where estimates of the School Board for that year exclude an amount of money that would normally be paid as salaries and wages of teachers and other employees of a board or the School Board and that was not paid in that year because of a strike or lock-out of such teachers and other employees, or any of them, that occurred prior to the adoption of the estimates in that year, the amount of money calculated in accordance with the regulations.

(6) The Metropolitan Council, when it levies against an area municipality the amount that it apportions for public school purposes and for secondary school purposes to such area municipality, shall submit a statement setting out the portions of the amounts referred to in clauses (5) (a) and (b) that are applied to reduce the sum required to be raised by the area municipality for public or secondary school purposes, as the case may be. ^{Idem}

(7) The collector of each area municipality shall send with the notice of taxes to each ratepayer affected in that area municipality a notice showing the amount of money applied to reduce the sum required to be raised in that area municipality for public or secondary school purposes and the effect of such reduction upon the mill rate. ^{Notice}

(8) Where the collector of an area municipality is required to send notices under subsection (7) in respect of a statement received from the Metropolitan Council under subsection (6), The Municipality of Metropolitan Toronto shall reimburse the area municipality for the reasonable expenses incurred by that area municipality for preparing and printing such notices, and The Municipality of Metropolitan Toronto shall deduct the total amount of such reimbursements from the sums payable to the School Board under subsection 131 (1) of the *Municipality of Metropolitan Toronto Act*. 1976, c. 50, s. 29, ^{Cost of notice} R.S.O. 1980, c. 314 *part*.

212. The Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations, that may be of general or particular application, providing for the calculation of the amounts of money, ^{Regulations}

- (a) to be placed in a reserve under subsection 210 (2) and subsection 211 (2); and

- (b) for the purposes of statements required under clause 210 (3) (b) or clause 211 (5) (b). 1976, c. 50, s. 29, *part*.

Interpre-
tation

213.—(1) In this section, “equalized assessment” for a municipality or a locality means the assessment upon which taxes are levied in the municipality or locality, as the case may be, in the year for which the apportionment is made as adjusted by the latest assessment equalization factor applicable thereto that is provided by the Minister.

Apportion-
ment where
unorganized
territory
becomes
part of
school
division

(2) Where, in any year, territory without municipal organization is included in a school division and property therein is assessed for the first time for the purpose of levying rates and collecting taxes for school purposes, such assessment shall, for the purposes of apportionment of costs for that year under this section, be the assessment on which taxes are levied in that year and a request for arbitration under subsection (11) may be made within thirty days after receiving the apportionment from the divisional board.

Apportion-
ment,
secondary
school
purposes

(3) The sum required by a divisional board for secondary school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for secondary school purposes in each such municipality or locality bears to the equalized assessment of all the property rateable for secondary school purposes in the school division.

Apportion-
ment, public
school
purposes

(4) The sum required by a divisional board for public school purposes shall be apportioned among the municipalities and localities in the school division in the proportion that the equalized assessment of the property rateable for public school purposes in each such municipality or locality bears to the equalized assessment of all the property rateable for public school purposes in the school division.

Request for
arbitration

(5) Where, in respect of any year, the council of a municipality is of the opinion that the apportionment made under subsection (3) or (4) imposes an undue burden on the rate-payers of the municipality or of part thereof, the council may apply to the divisional board, within thirty days after receiving the apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality or part thereof shall bear in such year.

Arbitrators

(6) Upon receipt of the application, the divisional board shall direct its chief executive officer to call a meeting of the treasurer of the county or the regional municipality or, in the case of The Muskoka Board of Education, the treasurer

of The District Municipality of Muskoka and the treasurers of the municipalities within the school division, and these treasurers shall be arbitrators to determine the proportion of the amounts to be raised by each municipality.

(7) The arbitrators shall make their decision in writing and file a copy thereof with the chief executive officer of the divisional board who shall forthwith send a copy of the decision to the clerk of each municipality by registered mail.

Notification
of decision

(8) If, within thirty days of the mailing of copies of the decision by the chief executive officer, the council of one of the municipalities files with the chief executive officer a written objection to the decision of the arbitrators, the divisional board shall refer the matter to the Ontario Municipal Board whose decision is final. 1974, c. 109, s. 206 (1-8).

Reference
to O.M.B.

(9) In determining the proportion of the amounts to be raised by each municipality, the arbitrators and the Ontario Municipal Board shall not take into account,

Payments in
lieu of
taxes not
to be
taken
into
account

(a) payments receivable by a municipality,

(i) from Canada, except payments under section 498 of the *Municipal Act*, or

R.S.O. 1980,
c. 302

(ii) from Ontario, except payments under section 7 of the *Housing Development Act*,

R.S.O. 1980,
c. 209

in lieu of taxes in respect of real property in the municipality;

(b) the valuation of any property referred to in clause (a);

(c) the valuation of properties of a commission as defined in section 26 of the *Assessment Act*, assessed in the municipality under such section; and

R.S.O. 1980,
c. 31

(d) payments receivable by the municipality under section 26 of the *Assessment Act*. 1975, c. 77, s. 2 (1).

(10) The decision of the arbitrators, or, if the matter is referred to the Ontario Municipal Board, the decision of the Ontario Municipal Board, is effective for the year in respect of which the decision is made.

Effect of
decision

Territory
without
municipal
organization

(11) In territory without municipal organization that is deemed to be a district municipality in a school division, five ratepayers resident in such district municipality have the same powers as the council of a municipality under subsections (5) and (8) and may appoint one ratepayer to act as treasurer for the purposes of this section and, where any disagreement arises in respect of such appointed treasurer, the chief executive officer of the divisional board shall designate the person so to act. 1974, c. 109, s. 206 (9, 10).

Levy not-
withstanding
appeal

(12) An application for an arbitration or the referral of an objection to the Ontario Municipal Board under this section does not relieve the council of a municipality of its duty to levy and collect the amounts required by the board as apportioned to the municipality.

Adjustment
where
apportion-
ment
altered by
O.M.B.

(13) Where in respect of any year a municipality in a school division has, under section 215, levied the amounts that were requisitioned by the divisional board and such amounts are altered pursuant to a decision of the arbitrators or to an order of the Ontario Municipal Board, the provisions of subsections 219 (2) and (3) shall apply in respect of an overpayment or an underpayment resulting from such alteration. 1975, c. 77, s. 2 (2).

Regulations
for
apportion-
ment in
any year

214.—(1) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a divisional board for secondary school purposes and for public school purposes for any year among the municipalities or parts thereof and localities in the school division. 1974, c. 109, s. 207 (1).

Apportion-
ment

(2) Notwithstanding subsections 213 (3) and (4) and notwithstanding any other Act, the sums required by a divisional board for secondary school purposes and for public school purposes for any year to which a regulation made under this section is applicable shall be apportioned among the municipalities or parts thereof and localities in the school division in accordance with such regulation. 1974, c. 109, s. 207 (2); 1976, c. 50, s. 30 (1).

Where
estimated
data used

(3) Where, in making the apportionment in accordance with a regulation made under this section, estimated data are used, an overpayment or an underpayment by a municipality or part thereof or a locality, determined on the basis of actual data, shall be adjusted in the levy for the following year.

Application
of grants

(4) Where the regulations provide for a grant to a divisional board on behalf of a part of a territorial district that in the

year 1968 was not included in a secondary school district, such grant shall be applied to reduce the sum required to be raised under this section in such part of the territorial district.

(5) Where the council of a municipality is of the opinion that the apportionment made under this section imposes an undue burden on the ratepayers of the municipality or part thereof, the council may apply to the divisional board, within thirty days after receiving such apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality shall raise in respect of the year for which the request for an arbitration is made, and the provisions of subsections 213 (5) to (12) apply with necessary modifications. 1974, c. 109, s. 207 (3-5).

Request for
arbitration

215.—(1) The council of each municipality in a school division in each year shall levy and collect,

Rates

- (a) upon all the property rateable for public school purposes in the municipality the amount that it is required by the divisional board to raise for public school purposes; and
- (b) upon all the property rateable for secondary school purposes in the municipality the amount that it is required by the divisional board to raise for secondary school purposes.

(2) Subject to subsection (3), the council of each municipality in a school division in each year shall pay to the divisional board the amounts required to be raised by the municipality for public school purposes and for secondary school purposes, in the following instalments:

Payment to
boards

- 1. 25 per cent of such amounts on the 31st day of March;
- 2. 25 per cent of such amounts on the 30th day of June;
- 3. 25 per cent of such amounts on the 30th day of September; and
- 4. 25 per cent of such amounts on the 15th day of December,

and in case of non-payment of such instalments or any portion thereof on such dates, the municipality so in default shall pay to the board interest thereon from the day of default to the date that the payment is made at the minimum lending rate of the majority of chartered banks on the day of default

and where, with the consent of the board, such instalments or any portion thereof are paid in advance of such dates, the board shall allow to the municipality a discount thereon from the date of payment to the date upon which the payment is due at the minimum lending rate of the majority of chartered banks on the date of payment.

Agreement

(3) A divisional board may, by agreement with a majority of the municipalities in the school division where such municipalities represent at least two-thirds of the equalized assessment in the school division as determined under subsection 213 (1), provide for any number of instalments and the amounts and due dates thereof other than those provided in subsection (2), which shall be applicable to all municipalities in the school division and otherwise subsection (2) applies with necessary modifications.

Termination
of agreement

(4) Where an agreement under subsection (3) does not provide for its termination, it shall continue in force from year to year until it is terminated on the 31st day of December in any year by notice given before the 31st day of October in such year,

- (a) by the chief executive officer of the divisional board as authorized by a resolution of the divisional board; or
- (b) by the clerks of the majority of the municipalities which represent at least two-thirds of the equalized assessment in the school division as determined under subsection 213 (1),

and where no agreement is in effect under subsection (3), the payments shall be made as provided in subsection (2).

Where
instalment
due before
requisition
received

(5) Where, in any year, for any reason, the amounts required to be raised under subsection (1) have not been requisitioned before the date upon which an instalment is due, the amount of the instalment shall be based upon the requisition of the previous year and paid on the due date, and in the case of late payment or prepayment of all or part of such instalment the interest or discount under subsection (2) shall apply thereto, and the necessary adjustment shall be made in the instalment due next following the date upon which the requisition of the divisional board is received.

Application
to separate
schools

(6) Where a combined separate school board has requested the municipalities that are in whole or in part within the combined separate school zone to levy and collect the rates or taxes imposed by the board, the provisions of subsections

(1) to (5) apply with necessary modifications to such board and such municipalities except that reference to equalized assessment in the school division shall be deemed to refer to equalized assessment rateable for separate school purposes in the combined zone.

(7) The provisions of this section that apply in respect of the public school purposes of a divisional board apply in respect of a public school board. 1974, c. 109, s. 208.

(8) The provisions of this section that apply in respect of the secondary school purposes of a divisional board apply in respect of a secondary school board. 1976, c. 50, s. 31.

216.—(1) Where taxes are collected by a municipal council for the purposes of a board, the notice of taxes given by the collector under section 379 of the *Municipal Act* shall be given separately in relation to taxes imposed for public, secondary or separate school purposes or in such manner as will clearly indicate the taxes imposed for such school purposes.

Tax notices

R.S.O. 1980,
c. 302

(2) The council of a municipality shall annually account for all moneys collected for school purposes, and any sum collected in excess of the amount required by a board to be raised by the municipality for such purposes shall, except where otherwise provided in the Act under which the sum is collected, be retained by the municipality and applied to reduce the amount that the municipality is required by such board to raise for such purposes in the year next following.

Municipality
to account
for moneys

(3) The council of a municipality shall correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be, to the end that no property shall escape from, or be compelled to pay more than, its proper proportion of the rate. 1974, c. 109, s. 209.

Correction
of errors in
collection
of rates in
previous
years

217.—(1) Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the treasurer and the chairman or vice-chairman to borrow from time to time by way of a promissory note, such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received, provided that the interest and any other charges connected therewith do not exceed the interest that would be payable at the minimum lending rate of the majority of chartered banks on the date of borrowing.

Current
borrowing

(2) A board may also borrow, in the manner provided in subsection (1), such sums as the board considers necessary to

Debt charges

meet debt charges payable in any year until the current revenue has been received.

Limitation

(3) The amounts that may be borrowed at any one time for the purposes mentioned in subsections (1) and (2), together with the total of any similar borrowings that have not been repaid, shall not exceed the unreceived or uncollected balance of the estimated revenues of the board, as set forth in the estimates adopted for the year.

When limitation calculated on estimated revenue

(4) Until such estimates are adopted, the limitations upon borrowing prescribed in this section shall temporarily be calculated upon the estimated revenues of the board, as set forth in the estimates adopted for the next preceding year, less the amount of revenues of the current year already collected.

Copy of resolution authorizing borrowing

(5) At the time, in any year, that any amount is borrowed under this section, the treasurer shall furnish to the lender a copy of the resolution authorizing the borrowing, unless he has previously done so, and as frequently as required by the lender, a statement showing the amount of the estimated revenues of the current year not yet collected or, where the estimates for the current year have not been adopted, a statement showing the amount of the estimated revenues of the board as set forth in the estimates adopted for the next preceding year and the amount of revenues of the current year already collected, and also showing the total amounts borrowed under this section in the current year that have not been repaid.

Estimated revenues

(6) For the purposes of this section, estimated revenues do not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets. 1974, c. 109, s. 210.

When fees payable by boards

218. The fees payable by a board for the education of pupils shall be paid, when requested by the treasurer of the board that provides the education, on an estimated basis at least quarterly during the year in which the education is provided, with such adjustment as may be required when the actual financial data and enrolment for the year have been finally determined, and the estimate shall be not less than the rate per pupil chargeable for a similar period in the preceding year times 90 per cent of the number of such pupils enrolled at the beginning of the current school year. 1974, c. 109, s. 211.

Reduction of requisition or rates

219.—(1) Where, in any year, provision is made by regulation for a grant to a board for the purpose of limiting in

such year the amount of the requisition for public or secondary school purposes or the increase in the mill rate for separate school purposes in respect of,

- (a) a municipality or part thereof; or
- (b) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board, the board shall, in such year, notwithstanding the provisions of any other Act, apply the grant to reduce the amount of the requisition that otherwise would be required for public or secondary school purposes or to reduce the mill rate that otherwise would be required to be levied for separate school purposes, as the case may be, in respect of the municipality or part thereof, or the district municipality.

(2) Where a board that has jurisdiction in more than one municipality or in one municipality and territory without municipal organization ascertains that,

Adjustment
of rates
where under-
or over-levy

- (a) the sum that the board requisitioned for public or secondary school purposes from, or levied for separate school purposes in, a municipality or a part thereof or part of territory without municipal organization that is deemed to be a district municipality under Part III for public and secondary school purposes or under Part IV for separate school purposes,

differs from

- (b) the sum that the board ought to have requisitioned for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory without municipal organization in such year in accordance with the provisions of this Act after the application of the grant referred to in subsection (1) that is receivable by the board in such year in respect of such municipality or part thereof or part of territory without municipal organization,

the difference shall be added to or subtracted from the sum that is estimated to be required for public or secondary school purposes from, or levied for separate school purposes in, such municipality or part thereof or part of territory without municipal organization in the year in which, or in the year next following the year in which, the existence of the difference is ascertained.

Levy for
difference

(3) Notwithstanding subsection (2), a board may, with the approval of the Minister, add to or subtract from the sum that is estimated to be required from or levied in a municipality or part thereof or part of territory without municipal organization in each of two or three years, commencing in the year in which, or in the year next following the year in which, the difference referred to in subsection (2) is ascertained, a portion of such difference, so as to make up the total thereof.

Interpre-
tation

220. In sections 221, 222 and 223,

(a) "commercial assessment" means,

(i) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof, and

(ii) business assessment, and

(iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines, and the assessment of telephone and telegraph companies,

according to the last revised assessment roll;

(b) "residential and farm assessment" means the assessment for real property except the assessment for real property mentioned in subclauses (a) (i) and (iii), according to the last revised assessment roll. 1974, c. 109, s. 213.

Data
furnished
by the
municipality

221. The clerk of a municipality shall in each year furnish to each board having jurisdiction in the municipality, or any parts thereof, information respecting the total of the commercial assessments and of the residential and farm assessments on which rates for the support of the board will be levied in that year and the amount due and payable in the current year for debt charges on debentures issued by the municipality in respect of the board. 1974, c. 109, s. 214.

Determina-
tion of rates

222.—(1) Rates to be levied for each board in each municipality or part thereof or part of territory without

municipal organization shall be determined in the following manner:

1. Add 85 per cent of the residential and farm assessment in the municipality or part or part of territory without municipal organization to the commercial assessment thereof.
2. Multiply the amount estimated by the board to be raised by levy on the assessment according to the last revised assessment roll for the municipality or part or part of territory without municipal organization by 1,000 and divide the product by the total determined under paragraph 1.
3. The rate to be levied on commercial assessment shall be the rate determined under paragraph 2.
4. The rate to be levied on residential and farm assessment shall be 85 per cent of the rate determined under paragraph 2. 1974, c. 109, s. 215 (1); 1979, c. 99, s. 3.

(2) Subject to subsection (3), the rates shall be determined by the council of each municipality for each board that has jurisdiction in the municipality. Who to determine rates

(3) A separate school board shall determine the rates to be levied for separate school purposes, and a public or secondary school board shall determine the public or secondary school rates to be levied in respect of territory without municipal organization that is within its area of jurisdiction. 1974, c. 109, s. 215 (2, 3). Idem

223. The clerk of each municipality and each secretary of a board in territory without municipal organization, in addition to the particulars required under subsection 13 (1) of the *Assessment Act*, shall prepare the following particulars: Assessments for school purposes
R.S.O. 1980, c. 31

1. The commercial assessment for public school purposes.
2. The residential and farm assessment for public school purposes.
3. The commercial assessment for separate school purposes.
4. The residential and farm assessment for separate school purposes.

5. Where two or more school jurisdictions, or parts thereof, are situated in the municipality, the school jurisdiction and the commercial assessment and residential and farm assessment in each jurisdiction. 1974, c. 109, s. 216.

Levying of
school rates

224. The council of every local municipality, every public school board that has jurisdiction only in territory without municipal organization, every secondary school board that has jurisdiction only in territory without municipal organization, every divisional board that has jurisdiction in any territory without municipal organization that is deemed a district municipality in a school division, and every separate school board in each year shall levy or cause to be levied on the whole of the assessment for real property and business assessment for public, secondary and separate school purposes, as the case may be, according to the last revised assessment roll, the rates determined for each public, secondary and separate school board having jurisdiction in the municipality, or a part thereof, or in territory without municipal organization, as the case may be. 1974, c. 109, s. 217; 1976, c. 50, s. 32.

This Part to
prevail where
conflict

225. In the event of a conflict between any provision in sections 220 to 224 and any provision in any other general or special Act, the provision in sections 220 to 224 prevails. 1974, c. 109, s. 218.

Rates for
public
library in
unorganized
territory
in school
division

R.S.O. 1980,
c. 414

226. Where a public library has been established for a school section in territory without municipal organization that is deemed a district municipality within a school division under subsection 52 (3), the divisional board of the school division shall be deemed to be a municipal council for such district municipality under section 22 of the *Public Libraries Act*, and the amount of the estimates of the board of the public library appropriated for such board by the divisional board of the school division shall be raised by a levy imposed by the divisional board on all the rateable property in the district municipality. 1974, c. 109, s. 219.

Interpre-
tation

227.—(1) In this section and in section 228,

- (a) “trailer” means any vehicle, whether self-propelled or so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, that is capable of being used for the living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked-up or that its running gear is removed;

- (b) "trailer camp" or "trailer park" means land in or upon which any trailer is placed, located, kept or maintained, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein.

(2) Except as provided in subsection (3), where a trailer is located in a trailer camp or elsewhere in a municipality and licence fees are collected for the trailer or for the land occupied by the trailer in a trailer camp in any year, the council of the municipality shall pay,

Share of
licence fees
for trailers
to be paid
to boards

- (a) to the public school board having jurisdiction in the school section in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for public school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes; and

- (b) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for secondary school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes. 1974, c. 109, s. 220 (1, 2).

(3) Where the occupant of a trailer has given to the clerk of the municipality in which the trailer is located a notice in writing stating that he is a Roman Catholic and desires to be a supporter of a separate school that is situated within 4.8 kilometres of the trailer and within the municipality or a municipality contiguous thereto, the council of the municipality shall pay,

Idem

- (a) to the board of the separate school a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for separate school purposes in that part of the municipality that is within 4.8 kilometres of the separate school bears to the total of the rates levied in such part of the municipality for separate and secondary school purposes and municipal purposes; and
- (b) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected with

respect to such trailer in the same proportion as the rate levied for secondary school purposes in such district bears to the total of the rates levied for separate and secondary school purposes and municipal purposes in that part of the district within 4.8 kilometres of the separate school. 1974, c. 109, s. 220 (3); 1978, c. 87, s. 15 (13).

Licence fees
not part of
annual rates

(4) The share of the licence fees payable to a board by the council of a municipality under this section shall be in addition to any other amount that is payable to the board by the municipality, and shall be paid to the board on or before the 15th day of December in the year for which the licence fees are collected.

Application
to municipally
operated
camps

(5) This section does not apply to trailer camps and trailer parks operated by a municipality. 1974, c. 109, s. 220 (4, 5).

Levy on
trailer
in public
school section
in un-
organized
territory

228.—(1) Except as provided in subsection (2), the owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a public school section shall pay to the public school board, on or before the first day of each month, a fee of \$5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located. 1974, c. 109, s. 221 (1).

Levy on
trailer
re separate
school in
unorganized
territory

(2) Where the occupant of a trailer that is located in territory without municipal organization is a Roman Catholic and signifies in writing to the separate school board and if the trailer is located in a public school section to the chief executive officer of the public school board that he is a Roman Catholic and wishes to be a supporter of the separate school that is within 4.8 kilometres of the trailer, the owner or lessee of the trailer shall pay to the separate school board, on or before the first day of each month, a fee of \$5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located. 1974, c. 109, s. 221 (2); 1978, c. 87, s. 15 (14).

Levy on
trailer
in secondary
school
district in
unorganized
territory

(3) The owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a secondary school district shall pay to the secondary school board, on or before the first day of each month, a fee of \$5 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Notice

(4) No person is required to pay a fee under this section until he has been notified in writing by the secretary of the board concerned or the tax collector that he is liable to pay such fee, and upon receipt of such notice the person

shall forthwith pay all fees for which he has been made liable under this section before receipt of the notice and shall thereafter pay fees in accordance with subsections (1) to (3).

(5) Every notice under this section shall make reference to this section and shall specify,

Content of notice

- (a) the amount of fees for which the person is liable on receipt of the notice;
- (b) the amount of the monthly fee to be paid thereafter;
- (c) the date by which payment is required to be made;
- (d) the place at which payment may be made; and
- (e) the fine provided under this section.

(6) No fees shall be charged in respect of a trailer assessed under the *Assessment Act*.

No levy where trailer assessed
R. S. O. 1980, c. 31

(7) Every owner or lessee or person having possession of a trailer who permits the trailer to be located in any part of territory without municipal organization in which he is liable for any fee under this section without paying the fee as required under this section is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$50 and each day that this subsection is contravened shall be deemed to constitute a separate offence.

Offence

229.—(1) Where, in a municipality, a person is entered on the collector's roll as a public school supporter and there is no public school board to which public school rates, if levied in any year on the taxable property of such person in the municipality, may be paid, there shall be levied and collected annually on the taxable property of such person in the municipality a rate equal to 50 per cent of the rate to be levied in that year for general municipal purposes in the municipality.

School rate where no public school in municipality

(2) The moneys raised under subsection (1) shall be deposited in a reserve account for public school purposes and may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings from such investments shall form part of the reserve account.

Reserve account
R. S. O. 1980, c. 512

(3) Subject to subsection (4), where, in a municipality referred to in subsection (1), a public school board is organized and makes provision for the education of its resident pupils, the municipal council shall pay over to the board such moneys

Use of moneys in account

as are held by the municipality under this section, and such moneys,

- (a) shall be used for such expenditures for permanent improvements for public school purposes as the board considers expedient; and
- (b) in any one year, may be used to defray not more than one-third of the amount that would otherwise be required to be requisitioned by the board for public school purposes from such municipality.

Application
in a school
division

(4) Where a municipality referred to in subsection (1) becomes part of a school division, the municipal council shall pay over to the divisional board such moneys as are held by the municipality and such moneys shall be used as provided in clause (3)(b). 1974, c. 109, s. 222.

PART IX

TEACHERS

Contracts

Full-time
or part-time
teacher

230.—(1) A full-time or part-time teacher who is employed by a board and who is not an occasional teacher shall be employed as a permanent or a probationary teacher.

Memo-
randum of
contract

(2) A memorandum of every contract of employment between a board and a permanent teacher or a probationary teacher shall be made in writing in the form of contract prescribed by the regulations, signed by the parties, sealed with the seal of the board and executed before the teacher enters upon his duties, but if for any reason such memorandum is not so made, or has not been amended to incorporate any change made in the form of contract so prescribed, every contract shall be deemed to include the terms and conditions contained in the form of contract prescribed for a permanent teacher. 1974, c. 109, s. 224.

Salary of
teacher

231.—(1) Unless otherwise expressly agreed and subject to subsections (2) to (5), a teacher is entitled to be paid his salary in the proportion that the total number of school days for which he performs his duties in the school year bears to the total number of school days in the school year.

Payment for
absence due
to illness
or dental
condition

(2) Subject to subsection (3), a permanent, probationary or temporary teacher is entitled to his salary for a total of twenty school days in any one school year in respect of his

absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the teacher his salary for more than twenty days absence from duty on account of such sickness or such tooth or gum condition.

(3) A part-time teacher is entitled to his salary for 10 per cent of the periods of instruction and supervision specified in the agreement for his employment in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the part-time teacher his salary for more than 10 per cent of the periods of instruction and supervision in respect of his absence from duty on account of such sickness or such tooth or gum condition.

Part-time teacher

(4) Every teacher is entitled to his salary notwithstanding his absence from duty in any case where, because of exposure to a communicable disease, he is quarantined or otherwise prevented by the order of the medical health authorities from attending upon his duties.

Absence of teacher in quarantine

(5) A teacher is entitled to his salary notwithstanding his absence from duty by reason of a summons to serve as a juror, or a subpoena as a witness in any proceeding to which he is not a party or one of the persons charged, provided that the teacher pays to the board any fee, exclusive of travelling allowances and living expenses, that he receives as a juror or as a witness.

Absence by reason of being a juror or witness

(6) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was not reasonable ground for the board disputing its liability or that the failure of the board to pay was from an improper motive, he may award as a penalty a sum not exceeding three months salary.

Award of salary by way of penalty

(7) For the purposes of subsection (6), the failure of a board to pay a teacher's salary may be extended by a judge to include failure to pay a teacher's salary when an agreement for his employment has been made by the board but no written memorandum has been made and executed as required by section 230, if the judge is satisfied upon the evidence that the refusal of the board to pay the salary by reason of the absence of a memorandum in writing is without merit. 1974, c. 109, s. 225.

Failure of board to pay salary when no written agreement

Probationary
teacher

232. A board shall not offer to a teacher, and no teacher shall accept, a contract as a probationary teacher for a period greater than,

- (a) two years where the teacher has less than three years' experience; and
- (b) one year where the teacher has three or more years' experience,

as a teacher in an elementary or secondary school in Ontario before the commencement of the contract. 1974, c. 109, s. 226.

Teachers to
be qualified

233.—(1) Except as otherwise provided in this Act, no person shall be employed or act as a teacher in an elementary or secondary school unless he is qualified as prescribed by the regulations.

Certificates

(2) Subject to this Act, a certificate of qualification as a teacher may be awarded only to a person of good moral character and physically fit to perform the duties of a teacher, who passes the examinations prescribed by, and otherwise complies with, the regulations.

Idem

(3) All certificates of qualification are valid for such periods as the regulations prescribe. 1974, c. 109, s. 227.

Termination
of contract
where
welfare of
school
involved

234. Notwithstanding the other provisions of this Part and notwithstanding anything in the contract between the board and the teacher, where a permanent or probationary teacher is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the teacher is employed,

- (a) the board or the teacher may, with the consent of the Minister, give the other party thirty days written notice of termination, and the contract is terminated at the expiration of thirty days from the date the notice is given; or
- (b) the board may, with the consent of the Minister, give the teacher written notice of immediate termination together with one-tenth of the teacher's yearly salary in addition to the amount to which he would otherwise be entitled, and the contract thereupon is terminated. 1974, c. 109, s. 228.

Duties

Duties of
teacher,

235.—(1) It is the duty of a teacher,

teach

- (a) to teach diligently and faithfully the classes or subjects assigned to him by the principal;

- (b) to encourage the pupils in the pursuit of learning,^{learning}
- (c) to inculcate by precept and example respect for re-^{religion}ligion and the principles of Judaeo-Christian morality^{and morals} and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;
- (d) to assist in developing co-operation and co-ordination^{co-operation} of effort among the members of the staff of the school;
- (e) to maintain, under the direction of the principal,^{discipline} proper order and discipline in his classroom and while on duty in the school and on the school ground;
- (f) in instruction and in all communications with the^{language of} pupils in regard to discipline and the management^{instruction} of the school,
 - (i) to use the English language, except where it is impractical to do so by reason of the pupil not understanding English, and except in respect of instruction in a language other than English when such other language is being taught as one of the subjects in the course of study, or
 - (ii) to use the French language in schools or classes in which French is the language of instruction except where it is impractical to do so by reason of the pupil not understanding French, and except in respect of instruction in a language other than French when such other language is being taught as one of the subjects in the course of study;
- (g) to conduct his class in accordance with a timetable^{timetable} which shall be accessible to pupils and to the principal and supervisory officers;
- (h) to participate in professional activity days as desig-^{professional}nated by the board under the regulations;^{activity days}
- (i) to notify such person as is designated by the board^{absence from} if he is to be absent from school and the reason^{school} therefor;

- school property (*j*) to deliver the register, the school key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his employment has ceased; and
- textbooks (*k*) to use and permit to be used as a textbook in a class that he teaches in an elementary or a secondary school,
- (i) in a subject area for which textbooks are approved by the Minister, only textbooks that are approved by the Minister, and
- (ii) in all subject areas, only textbooks that are approved by the board.
- Refusal to give up school property (2) A teacher who refuses, on demand or order of the board that operates the school concerned, to deliver to the board any school property in his possession forfeits any claim that he may have against the board.
- Teachers, conferences (3) Teachers may organize themselves for the purpose of conducting professional development conferences and seminars. 1974, c. 109, s. 229.
- Duties of principal, **236.** It is the duty of a principal of a school, in addition to his duties as a teacher,
- discipline (a) to maintain proper order and discipline in the school;
- co-operation (b) to develop co-operation and co-ordination of effort among the members of the staff of the school;
- register pupils and record attendance (c) to register the pupils and to ensure that the attendance of pupils for every school day is recorded either in the register supplied by the Minister in accordance with the instructions contained therein or in such other manner as is approved by the Minister;
- pupil records (d) to establish and maintain, and to retain, transfer and dispose of, in the manner prescribed by the regulations, a record in respect of each pupil enrolled in the school;
- timetable (e) to prepare a timetable, to conduct the school according to such timetable and the school year calendar or calendars applicable thereto, to make the calendar or calendars and the timetable accessible to the pupils, teachers and supervisory officers and to assign classes and subjects to the teachers;

- (f) to hold, subject to the approval of the appropriate supervisory officer, such examinations as he considers necessary for the promotion of pupils or for any other purpose and report as required by the board the progress of the pupil to his parent or guardian where the pupil is a minor and otherwise to the pupil; examinations and reports
- (g) subject to revision by the appropriate supervisory officer, to promote such pupils as he considers proper and to issue to each such pupil a statement thereof; promote pupils
- (h) to ensure that all textbooks used by pupils are those approved by the board and, in the case of subject areas for which the Minister approves textbooks, those approved by the Minister; textbooks
- (i) to furnish to the Ministry and to the appropriate supervisory officer any information that it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, and to prepare such reports for the board as are required by the board; reports
- (j) to give assiduous attention to the health and comfort of the pupils, to the cleanliness, temperature and ventilation of the school, to the care of all teaching materials and other school property, and to the condition and appearance of the school buildings and grounds; care of pupils and property
- (k) to report promptly to the board and to the municipal health officer or to the school medical officer where one has been appointed, when he has reason to suspect the existence of any infectious or contagious disease in the school, and of the unsanitary condition of any part of the school building or the school grounds; report to M.O.H.
- (l) to refuse admission to the school of any person who he believes is infected with or exposed to communicable diseases requiring quarantine and placarding under regulations made pursuant to the *Public Health Act* until furnished with a certificate of a medical officer of health or of a legally qualified medical practitioner approved by him that all danger from exposure to contact with such person has passed; persons with communicable diseases
R.S.O. 1980, c. 409

access to
school or
class

- (m) subject to an appeal to the board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in his judgment be detrimental to the physical or mental well-being of the pupils; and

visitor's
book

- (n) to maintain a visitor's book in the school when so determined by the board. 1974, c. 109, s. 230.

Pupil Records

Interpre-
tation

237.—(1) In this section, except in subsection (12), “record” in respect of a pupil means a record maintained or retained by the principal of a school in accordance with the regulations.

Pupil records
privileged

(2) A record is privileged for the information and use of supervisory officers and the principal and teachers of the school for the improvement of instruction of the pupil, and such record,

- (a) subject to subsections (3) and (5), is not available to any other person; and
- (b) except for the purposes of subsection (5), is not admissible in evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceeding, except to prove the establishment, maintenance, retention or transfer of the record,

without the written permission of the parent or guardian of the pupil or, where the pupil is an adult, the written permission of the pupil.

Right of
parent and
pupil

(3) A pupil, and his parent or guardian where the pupil is a minor, is entitled to examine the record of such pupil.

Idem

(4) Where, in the opinion of a pupil who is an adult, or of the parent or guardian of a pupil who is a minor, information recorded upon the record of the pupil is,

- (a) inaccurately recorded; or
- (b) not conducive to the improvement of instruction of the pupil,

such pupil, parent or guardian, as the case may be, may, in writing, request the principal to correct the alleged inaccuracy in, or to remove the impugned information from, such record.

(5) Where the principal refuses to comply with a request under subsection (4), the pupil, parent or guardian who made the request may, in writing, require the principal to refer the request to the appropriate supervisory officer who shall either require the principal to comply with the request or submit the record and the request to a person designated by the Minister, and such person shall hold a hearing at which the principal and the person who made the request are the parties to the proceedings, and the person so designated shall, after the hearing, decide the matter, and his decision is final and binding upon the parties to the proceedings.

Reference
where
disagree-
ment

(6) Nothing in subsection (2) prohibits the use by the principal of the record in respect of a pupil to assist in the preparation of,

Use re further
education or
employment

(a) a report required by this Act or the regulations; or

(b) a report,

(i) for an educational institution or for the pupil or former pupil, in respect of an application for further education, or

(ii) for the pupil or former pupil in respect of an application for employment,

where a written request is made by the former pupil, the pupil where he is an adult, or the parent or guardian of the pupil where the pupil is a minor.

(7) Nothing in this section prevents the compilation and delivery of such information as may be required by the Minister or by the board.

Information
for Minister
or board

(8) No action shall be brought against any person in respect of the content of a record.

No action re
content

(9) Except where the record has been introduced in evidence as provided in this section, no person shall be required in any trial or other proceeding to give evidence in respect of the content of a record.

Testimony
re content

(10) Except as permitted under this section, every person shall preserve secrecy in respect of the content of a record that comes to his knowledge in the course of his duties or employment, and no such person shall communicate any such knowledge to any other person except,

Secrecy re
contents

(a) as may be required in the performance of his duties;
or

(b) with the written consent of the parent or guardian of the pupil where the pupil is a minor; or

(c) with the written consent of the pupil where the pupil is an adult.

**Interpre-
tation**

(11) For the purposes of this section, "guardian" includes a person, society or corporation who or that has custody of a pupil.

**Application
to former
records**

(12) This section, except subsections (3), (4) and (5), applies with necessary modifications to a record established and maintained in respect of a pupil or retained in respect of a former pupil prior to the 1st day of September, 1972.

**Use of record
in disci-
plinary cases**

(13) Nothing in this section prevents the use of a record in respect of a pupil by the principal of the school attended by the pupil or the board that operates the school for the purposes of a disciplinary proceeding instituted by the principal in respect of conduct for which the pupil is responsible to the principal. 1974, c. 109, s. 231.

Boards of Reference

**Interpre-
tation**

238. In sections 239 to 248,

(a) "contract" means a contract of employment between a teacher and a board;

(b) "employed" means employed as a permanent teacher by a board;

(c) "judge" means a judge of a county or district court;

(d) "teacher" means a person qualified to teach in an elementary or secondary school and employed by a board on the terms and conditions contained in the form of contract prescribed for a permanent teacher. 1974, c. 109, s. 232.

**Termination
of contract
by board**

239.—(1) The dismissal of a teacher, or the termination of the contract of a teacher, by a board shall be by notice in writing, which shall state the reasons therefor, in accordance with the terms of the contract.

**Termination
of contract
by teacher**

(2) Where a teacher is employed by a board, the termination of the contract by the teacher shall be by notice in writing in accordance with the terms of the contract.

(3) Where a teacher is dismissed or the contract of a ^{Application for board} teacher is terminated by the board or the teacher, the teacher or board if not in agreement with the dismissal or termination may at any time within twenty-one days after receiving the notice referred to in subsection (1) or (2), as the case may be, apply in writing by registered letter to the Minister for a Board of Reference, stating the disagreement.

(4) The applicant shall send a copy of the application by ^{Service of notice} registered mail to the other party to the disagreement on the same day as the application is sent to the Minister. 1974, c. 109, s. 233.

240.—(1) A board shall not make a permanent appointment to take the place of a teacher who is dismissed or whose contract has been terminated in a manner not agreeable ^{Appointment in place of teacher dismissed} to the teacher until,

- (a) the time prescribed for applying for a Board of Reference has elapsed and the teacher has not applied for a Board of Reference and sent a copy of the application to the board, as provided in section 239;
- (b) the board has received from the teacher notice in writing that no application will be made under section 239;
- (c) the board has received from the Minister notice in writing that an application made by the teacher under section 239 has been withdrawn;
- (d) the board has received from the Minister notice in writing that he has refused an application made by the teacher under section 239;
- (e) the board has received from the Minister notice in writing that the teacher, being the applicant, has failed to comply with the requirements of subsection 241 (3); or
- (f) the board has received from the Minister a copy of the direction of the Board of Reference under section 244 directing the discontinuance of the contract,

whichever first occurs.

(2) A teacher who terminates a contract in a manner not agreeable to the board shall not enter into a contract with another board after the teacher has received notice of the application of the board for a Board of Reference until, ^{New contract after termination of contract by teacher}

- (a) the teacher has received from the Minister notice in writing that an application made by the board under section 239 has been withdrawn;
- (b) the teacher has received from the Minister notice in writing that he has refused an application made by the board under section 239;
- (c) the teacher has received from the Minister notice in writing that the board, being the applicant, has failed to comply with the requirements of subsection 241 (3); or
- (d) the teacher has received from the Board of Reference a copy of the direction of the Board of Reference under section 244 directing the discontinuance of the contract,

whichever first occurs. 1974, c. 109, s. 234.

Application
for Board of
Reference

241.—(1) Upon receipt of an application for a Board of Reference, the Minister shall cause notice of the application to be sent by registered mail to the other party to the disagreement and shall within thirty days of sending the notice inquire into the disagreement and shall, within the same time,

- (a) refuse to grant the Board of Reference; or
- (b) grant the Board of Reference and appoint a judge to act as chairman thereof.

Appointment

(2) Where, under subsection (1), a judge is appointed after the expiry of thirty days referred to therein to act as chairman of a Board of Reference, the failure to make the appointment within the thirty-day period does not invalidate the Board of Reference or the appointment of the judge as chairman thereof, provided the Board of Reference is granted in accordance with subsection (1).

Naming of
representa-
tives

(3) Upon appointing a judge to act as chairman of a Board of Reference, the Minister shall cause notice thereof to be sent by registered mail to the board and teacher involved in the disagreement and the notice shall require each of them to name to the Board of Reference a representative who is not the teacher involved or a member of the board and to send or cause to be sent by hand or by registered mail to the Minister a notice of such nomination within twelve days of the sending of the notice by the Minister.

Failure to
name repre-
sentatives

(4) If the applicant fails to comply with the requirements of subsection (3), the application shall be deemed to be

abandoned and the Minister shall cause notice thereof to be sent by registered mail to the other party to the disagreement.

(5) If the respondent fails to comply with the requirements of subsection (3), the Minister shall direct the continuance of the contract. Idem

(6) If the representative of the board or the teacher, having been named, fails to appear at the hearing, the chairman of the Board of Reference shall name a representative for the board or teacher, as the case may be. Failure of representative to appear

(7) Where the Minister grants a Board of Reference, the applicant shall be deemed to have met the conditions precedent to the granting of a Board of Reference. Applicant deemed eligible

(8) Where, after the hearing has commenced, the representative of the board or of the teacher dies; for any reason is unable to continue to act or withdraws from the Board of Reference, the other representative shall withdraw and the decision of the Board of Reference shall be made by the chairman. Death or withdrawal of representative

(9) Where, before the hearing has commenced, the chairman of a Board of Reference dies, disqualifies himself, for any reason is unable to act or is prohibited from acting, the Minister shall appoint another judge to act as chairman and the Board of Reference shall proceed in accordance with this Part except that for the purposes of section 242 the date of appointment of the chairman is the date of appointment of the chairman appointed to act under this section. Death, etc., of chairman before hearing

(10) Where, after the hearing has commenced and before the chairman of a Board of Reference reports to the Minister and to the parties, New Board of Reference after hearing commences

(a) the chairman dies, disqualifies himself, for any reason is unable to continue as chairman, or is prohibited from acting; or

(b) the Board of Reference is prohibited from acting or proceeding,

the Board of Reference is terminated and, where, within ninety days after the death, disqualification, inability to continue or prohibition referred to in clause (a) or (b), the person who applied for the Board of Reference requests the Minister in writing to grant another Board of Reference, the Minister may grant a new Board of Reference, in which case the provisions of this Part apply with necessary modifications except that the representatives named to the new Board of Reference shall not be the representa-

tives named to the Board of Reference terminated under this subsection and the determination and direction of the costs under section 247 may include the costs, if any, incurred in respect of the Board of Reference terminated under this subsection.

Procedure at
new Board
of Reference

(11) Where a new Board of Reference is granted under subsection (10), the hearing shall proceed as if the hearing by the Board of Reference terminated under subsection (10) had not commenced. 1974, c. 109, s. 235.

Place and
time of
hearing

242. The chairman of the Board of Reference shall, within thirty days of his appointment, and upon reasonable notice thereof to the parties, convene the Board of Reference in any appropriate and convenient court house or municipal or school building and at such time as he may appoint. 1974, c. 109, s. 236.

Duty to
inquire and
powers of
judge
R.S.O. 1980,
c. 411

243. The Board of Reference shall inquire into the matter in dispute and for such purposes the chairman has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. 1974, c. 109, s. 237.

Direction of
Board of
Reference
to report

244.—(1) A board of Reference shall direct the continuance of the contract or the discontinuance of the contract.

Chairman of
Board of
Reference
to report

(2) The chairman of a Board of Reference shall, within seven days after,

- (a) the application for the Board of Reference is withdrawn; or
- (b) the matter in dispute has been settled by the parties to the Board of Reference; or
- (c) the completion of the hearing and the receipt of any written submissions required by him,

report to the Minister and the parties the disposition of the application. 1974, c. 109, s. 238.

New Board
of Reference
provided
R.S.O. 1980,
c. 224

245. Where, pursuant to an application for judicial review under the *Judicial Review Procedure Act*, the report or the direction of a Board of Reference is set aside, the Minister may grant a new Board of Reference if the board or teacher applies therefor to the Minister by registered mail within fifteen days after the date of the order of the court setting aside the report or direction, and the provisions of sections 238 to 248 apply with necessary modifications in respect of the new Board of Reference. 1974, c. 109, s. 239.

246.—(1) The direction of the Board of Reference under section 244 is binding upon the board and the teacher. Direction of Board

(2) If a board fails to comply with the direction of the Board of Reference under section 244, the Minister may direct that any portion of the amounts then or thereafter payable to the board under the authority of any Act of the Legislature shall not be paid to the board until it has complied with the direction. Failure to comply with direction of Board

(3) If a teacher fails to comply with the direction of the Board of Reference under section 244, the Minister may suspend the certificate of qualification of the teacher for such period as he considers advisable. 1974, c. 109, s. 240. Idem

247. Subject to the regulations made under section 248, the chairman of the Board of Reference shall determine and direct the costs to be paid by either or both parties in the disagreement, and every such order may be enforced in the same manner as an order as to costs made in an action in a county or district court. 1974, c. 109, s. 241. Payment of costs

248. The Lieutenant Governor in Council may make regulations, Regulations

(a) fixing the remuneration of members of Boards of Reference and defining, prescribing and limiting other items of expense, including travelling and living expenses, which shall be included in the costs of a Board of Reference;

(b) regulating the practice and procedure to be followed upon any reference; and

(c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of sections 239 to 247. 1974, c. 109, s. 242.

PART X

SUPERVISORY OFFICERS

249. Every supervisory officer appointed under this Part shall hold the qualifications required by the regulations for a supervisory officer. 1974, c. 109, s. 243. Qualifications of supervisory officers

250. A board of education that had an enrolment in its public and secondary schools of 2,000 or more on the 30th day of September of any year and does not have a director Director of education

of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer who is responsible to the board for the development, implementation, operation and supervision of educational programs in the schools. 1974, c. 109, s. 244.

Director
of education
for separate
school board

251. A separate school board that had an enrolment in its schools of 2,000 or more on the 30th day of September of any year and does not have a director of education shall, on or before the 1st day of August of the year following, appoint a director of education, and he shall hold the qualifications required by the regulations for a supervisory officer who is responsible to the board for the development, implementation, operation and supervision of educational programs in the schools. 1974, c. 109, s. 245.

Supervisory
officers

252. A board of education having an enrolment in its public and secondary schools of fewer than 2,000 and a county or district combined separate school board having an enrolment in its schools of fewer than 2,000 may appoint such supervisory officers as are approved by the Minister. 1974, c. 109, s. 246.

Chief
executive
officer

253.—(1) A director of education is the chief education officer and the chief executive officer of the board by which he is employed and is a supervisory officer who qualified as such as a teacher.

Idem

(2) The chief executive officer of a board shall, within policies established by the board, develop and maintain an effective organization and the programs required to implement such policies. 1974, c. 109, s. 247.

Supervisory
officers and
director of
education

254. Every board that is required to appoint a director of education shall, subject to the regulations, employ such other supervisory officers as it considers necessary to supervise adequately all aspects of the programs under its jurisdiction. 1974, c. 109, s. 248.

Appointment
of super-
visory
officers

255.—(1) Where a board appoints one or more supervisory officers, the board,

- (a) shall, subject to the regulations, designate the title and area of responsibility of each such officer;
- (b) shall appoint an English-speaking supervisory officer for schools and classes where English is the language of instruction, and a French-speaking supervisory

officer for schools and classes where French is the language of instruction, or shall arrange with another board or with the Minister for the services of an English-speaking supervisory officer or a French-speaking supervisory officer where such officer is not appointed by the board; and

- (c) may assign to a supervisory officer such administrative duties, in addition to those prescribed in section 256 and the regulations, as the board considers expedient.

(2) No person shall be appointed as a supervisory officer by a board until notice in writing of the proposed appointment and the area of responsibility to be assigned has been given to the Minister and the Minister has confirmed that the person to be appointed is eligible for the position. 1974, c. 109, s. 249.

256.—(1) Subject to the regulations, a board or the Minister shall assign the following duties to its or his supervisory officer or officers,

- (a) to bring about improvement in the quality of education by assisting teachers in their practice; assist teachers
- (b) to assist and co-operate with boards to the end that the schools may best serve the needs of the pupils; co-operate with boards
- (c) to visit schools and classrooms as the Minister may direct and, where the supervisory officer has been appointed by a board, as the board may direct; visit schools
- (d) to prepare a report of a visit to a school or classroom when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board and to give to a teacher referred to in any such report a copy of the portion of the report that refers to the teacher; prepare reports
- (e) to ensure that the schools under his jurisdiction are conducted in accordance with this Act and the regulations; Acts and regulations
- (f) to make a general annual report as to the performance of his duties and the condition of the schools in his area of jurisdiction when required by the Minister and, where the supervisory officer has been appointed by a board, when required by the board; annual report to Minister

report to
M.O.H.

(g) to report to the appropriate medical officer of health any case in which the school buildings or premises are found to be in an unsanitary condition;

report to
the Minister

(h) to furnish the Minister with information respecting any school in his area of jurisdiction whenever required to do so;

supervise
business

(i) to supervise the business functions of the board; and

supervise
buildings and
property

(j) to supervise the use and maintenance of the buildings and property of the board.

Responsi-
bility to
Minister

(2) Every supervisory officer appointed by the Minister is responsible to the Minister for the performance of his duties.

Responsi-
bility to
board

(3) Every supervisory officer appointed by a board is responsible to the board through the chief executive officer for the performance of the duties assigned to him by the board.

Full-time
position

(4) Except as otherwise provided by this Act or the regulations, a supervisory officer shall not, without the approval of the Minister, hold any other office, have any other employment or follow any other profession or calling, during his tenure as a supervisory officer. 1974, c. 109, s. 250.

Suspension or
dismissal of
supervisory
officer by
board

257.—(1) A supervisory officer appointed by a board may be suspended or dismissed by the board, in accordance with the regulations, for neglect of duty, misconduct, or inefficiency.

Notice re
suspension or
dismissal

(2) Where a board suspends or dismisses a supervisory officer, the board shall forthwith notify in writing the supervisory officer and the Minister of the suspension or dismissal and the reasons therefor. 1974, c. 109, s. 251.

PART XI

FRENCH LANGUAGE INSTRUCTION

Elementary

French-
language
elementary
schools
and classes

258.—(1) A board of education, public school board or separate school board may establish and maintain elementary

schools or classes in elementary schools, including kindergarten and junior kindergarten classes, for the purpose of providing for the use of the French language in instruction of French-speaking pupils. 1974, c. 109, s. 252 (1); 1976, c. 50, s. 33.

(2) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board referred to in subsection (1) that a number of French-speaking pupils resident in the school section or separate school zone have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty-five or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day of the following school year.

French-language classes

(3) Where the evidence referred to in subsection (2) is presented to the board after the 1st day of April and before the first school day in September next following, the board shall make the determination required under subsection (2) and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty-five or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups.

Idem

(4) Where a board referred to in subsection (1) provides or is required to provide for the use of the French language in instruction and in the opinion of the board the number of pupils who elect to be taught in the French language so warrants, the board shall provide a French-language elementary school.

French-language schools

(5) Notwithstanding subsections (1), (2), (3) and (4), English may be a subject of instruction in any grade and shall be a subject of instruction in Grade 5 and all subsequent grades in an elementary school.

English as subject of instruction

(6) A board, on the request of the parent or guardian of an English-speaking pupil of the board, or of the pupil where he is an adult, may admit the pupil to a class formed under subsection (1), (2) or (3) or to a school provided under subsection (4) if his admission is approved by majority vote of an admissions committee appointed by the board, and composed of the principal

Admission of pupils other than French-speaking pupils

of the school to which admission is requested, a teacher who uses the French language in instruction in such school and, subject to subsection (7), a French-speaking supervisory officer employed by the board.

Where board has no French-speaking supervisory officer

(7) Where a board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee.

English-language schools or classes

(8) Where a board has provided one or more French-language elementary schools under subsection (4) and a number of pupils of the board elect to be taught in the English language, subsections (1), (2) and (3) apply with necessary modifications in respect of provision for the use of the English language in instruction. 1974, c. 109, s. 252 (2-8).

Duties and responsibilities of advisory committee in public schools

259. Where a board of education has established a French-language advisory committee under section 262, or an English-language advisory committee under section 272, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the public schools operated by the board of education as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes. 1974, c. 109, s. 253.

Secondary

Interpretation

260. In sections 261 to 277,

- (a) "board" means a board of education;
- (b) "committee" means a French-language advisory committee formed under section 262;
- (c) "French-language instructional unit" means a class, group of classes, or school in which French is the language of instruction;
- (d) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1974, c. 109, s. 254.

French-language schools or classes

261.—(1) A board may establish and maintain secondary schools or classes in secondary schools for the purpose of providing for the use of the French language in instruction of French-speaking pupils, or may enter into an agreement

with another board to provide for the admission of resident pupils of the first-mentioned board to one or more French-language instructional units operated by such other board. 1974, c. 109, s. 255 (1); 1976, c. 50, s. 34.

(2) Where, after the first school day in September and on or before the 1st day of April next following, written evidence is presented to a board that a number of French-speaking pupils resident in the secondary school district have elected to be taught in the French language, the board shall forthwith determine whether French-speaking pupils can be assembled for this purpose in one or more classes or groups of twenty or more and, where the board determines that such pupils can be so assembled, it shall provide for the use of the French language in instruction in such classes or groups commencing on the first school day in the following school year. French-language schools

(3) Where the evidence referred to in subsection (2) is presented to the board after the 1st day of April and before the first school day in September next following, the board shall make the determination required under subsection (2) and, where the board determines that French-speaking pupils can be assembled in classes or groups of twenty or more for the use of the French language in instruction, the board may, commencing on the first school day in January of the following year, and shall, commencing on the first school day in September of such following year, provide for the use of the French language in instruction in such classes or groups. Idem

(4) Where a board provides or is required to provide for the use of the French language in instruction in one or more classes in a secondary school and in the opinion of the board the number of French-speaking pupils who elect to be taught in the French language so warrants, the board shall provide an appropriate unit of a secondary school or, where practicable, a French-language secondary school. French-language secondary schools

(5) Where a board determines that the number of French-speaking pupils who elect to be taught in the French language is not sufficient to justify the establishment of a French-language secondary school, the board shall, in respect of the education of such pupils, consider the possibility of entering into an agreement with another board under section 159 or 163. 1974, c. 109, s. 255 (2-5). Agreement with another board

262.—(1) Where,

- (a) ten or more French-speaking ratepayers of a secondary school district apply in writing to the board for the

Establishment of committee

establishment or extension in a secondary school of a class, group or program in which the French language is or is to be used in instruction of French-speaking pupils; or

- (b) a board establishes or extends or decides to establish or extend a class, group or program in which the French language is or is to be used in instruction of French-speaking pupils,

the board shall, within two months of the application, establishment, extension or decision to establish or extend, by resolution, establish a committee and provide for the holding of elections of members thereof, and such elections shall, subject to subsection (7), be held within such period. 1974, c. 109, s. 256 (1); 1976, c. 50, s. 35.

Composition

- (2) The committee shall consist of nine members and shall be composed of,

- (a) three members of the board appointed by the board; and
- (b) six French-speaking ratepayers who are not members of the board but have the qualifications required for members of the board, elected by French-speaking ratepayers of the secondary school district.

Member of elementary board

- (3) A member of the committee under clause (2) (b) may be a member of an elementary school board.

Term of office

- (4) A member of a committee shall hold office during the term of the members of the board and until a new board is organized.

Apportionment of members

- (5) The board, subject to subsection (8), shall apportion the number of members under clause (2) (b) among the municipalities and the localities, or among parts or groups of such municipalities or localities, within the jurisdiction of the board as nearly as is practicable in the proportion that the number of French-speaking pupils who elect to be taught in the French language from each such municipality, locality or part or group thereof bears to the total number of such pupils within the area of jurisdiction of the board.

Meetings of French-speaking ratepayers to elect committee members

- (6) The board shall make provision for a meeting of its French-speaking ratepayers in respect of each area to which one or more members are apportioned under subsection (5) for the purpose of electing such member or members to the

committee, and shall advertise in each of its schools and in the public media serving the local population, the place, date and time of the meeting, and take such additional action to publicize the meeting as it considers expedient.

(7) Where the election of members of a committee under sub- Idem
section (1) would otherwise be held within three months before the date of the regular election of members of the board, the election required under subsection (1) shall be held in accordance with section 263. 1974, c. 109, s. 256 (2-7).

(8) For the purpose of the second and subsequent elections Consultation with committee re apportionment
of members to a committee, the board shall consult with the committee before making the apportionment referred to in subsection (5) and shall make such apportionment on or before the 1st day of November in the year of a regular election of the board. 1974, c. 109, s. 256 (8); 1978, c. 44, s. 22.

263. Where a committee has been established and a new French-speaking ratepayers to elect subsequent members to committee
board has been elected, a meeting provided under subsection 262 (6) to elect a member or members to the committee shall be held not later than ten days following the first meeting of the newly-elected board commencing at 8 o'clock in the afternoon on such date and at such place as the board may determine, and such meeting may also consider any other matters brought before it, and the provisions of subsection 262 (6) respecting the publicizing of the meeting apply. 1974, c. 109, s. 257; 1978, c. 44, s. 23.

264.—(1) The secretary of the board or a person appointed by Election of chairman of meeting
the board shall call to order each meeting of French-speaking ratepayers under sections 262 and 263 and shall preside thereat for the purpose of electing a chairman of the meeting.

(2) The chairman of a meeting shall appoint a secretary Secretary of meeting
who shall record the proceedings of the meeting and perform such other duties as are required by the chairman.

(3) The chairman of a meeting shall conduct the election Procedure at meeting
of the member or members of the committee to be elected at such meeting and shall submit all motions to the meeting in the manner desired by the majority, and the chairman is entitled to vote on any motion and, in the case of an equality of votes with respect to the election of a member of the committee, the chairman shall provide for drawing lots to determine which of the candidates is elected and a motion on which there is an equality of votes is lost.

Notice of
result
of election

(4) Notice in writing shall be given by the secretary of a meeting to the secretary of the board designating by their names and addresses the person or persons elected as members of the committee. 1974, c. 109, s. 258.

Chairman
and vice-
chairman of
committee

265.—(1) At the first meeting of the committee, the members shall elect from among themselves a chairman and a vice-chairman.

Quorum

(2) A majority of the members of the committee constitutes a quorum, and the vote of a majority of the members present at a meeting is necessary to bind the committee.

Vote of
chairman,
equality of
votes

(3) On every motion, the chairman may vote, and a motion on which there is an equality of votes is lost.

Special
meeting

(4) A special meeting of the committee may be called by the chairman of the committee and shall be called by the chairman upon the request in writing of two members of the committee who shall specify the objects for which the meeting is to be held, and the objects shall be stated in the notice calling the meeting. 1974, c. 109, s. 259.

Vacancies

266. Every vacancy on a committee for any cause shall be filled by appointment by the board in the case of appointed members and by the elected members of the committee in the case of elected members and every person so appointed shall hold office for the unexpired term of the member whose seat has become vacant. 1974, c. 109, s. 260.

Recommendations

267.—(1) A committee is responsible for developing proposals designed to meet the educational and cultural needs of the French-speaking pupils and the French-speaking community and for such purpose may make recommendations in respect of,

- (a) the provision of suitable sites, accommodation and equipment;
- (b) the establishment, operation and management of French-language instructional units;
- (c) the use of the French language and of the English language in French-language instructional units;
- (d) the recruitment and appointment of the required teaching, supervisory and administrative personnel;
- (e) the establishment of the course of study and the use of textbooks;

- (f) the development and establishment of special education programs;
- (g) the establishment of attendance areas for French-language instructional units;
- (h) the provision of transportation for pupils;
- (i) the entering into agreements with other boards in respect of the provision of instruction in the French language and supervisory and consultative services;
- (j) the provision of board, lodging, and transportation for pupils;
- (k) the development and establishment of adult education programs;
- (l) the use of any facility and means necessary to meet the educational and cultural needs of the French-speaking community;
- (m) the provision of summer school programs; and
- (n) any other matter pertaining to French-language education for French-speaking pupils.

(2) The committee shall report at each regular meeting of the board. Committee report to board

(3) The board shall seek the advice of the committee on all matters affecting the establishment, program, administration and termination of French-language instructional units before any final decision regarding such matters is taken by the board and shall provide adequate accommodation and staff to implement the decision of the board. Board to seek advice of committee

(4) The board shall consider any recommendation submitted to it in writing by the committee and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee of the board to which such recommendation is referred and, where a board refuses a recommendation of the committee, it shall, within thirty days after receiving the recommendation of the committee, forward to the committee written reasons for its refusal. Consideration of recommendations by board

(5) Upon receipt of a refusal and the reasons therefor under subsection (4), the committee may, by motion, refer the matter to the Languages of Instruction Commission of Ontario, in which case it shall send to the Commission and to the board Referral by committee to Languages of Instruction Commission

copies of the motion, the recommendation of the committee and the written reasons of the board for its refusal. 1974, c. 109, s. 261.

Attendance
of committee
chairman at
board com-
mittee
meeting

268.—(1) The chairman of the committee or a member of the committee designated by him may attend any meeting of a committee of the board and shall be given the opportunity to be heard at such meeting in respect of any matter that affects French-speaking pupils and that is within the jurisdiction of such committee of the board.

Distribution
of administra-
tive
materials

(2) Notices, agendas and minutes in respect of meetings of the board shall be distributed to members of the committee together with such supporting documents as may be agreed upon by the board and the committee.

Formation
of sub-
committees

(3) The committee may, at its discretion, form sub-committees to assist it in its work.

Committee
may hold
public
meetings

(4) The committee may hold such public meetings to report upon its work as it considers necessary or desirable. 1974, c. 109, s. 262.

Resources
and services
to be provided
by board

269.—(1) The board shall make available to the committee the resources and services provided for a committee of the board.

Annual
report of
committee

(2) The chairman of the committee shall cause to be prepared in French and English an annual report, and the report shall be included in that of the board where the board publishes a report.

Services of
professional
staff to be
provided

(3) The committee may, through the chief executive officer of the board, obtain the advice and assistance of such supervisory officers and teachers employed by the board as the committee may request. 1974, c. 109, s. 263.

Allowance

270.—(1) Each member of the committee who is not a member of the board shall receive an allowance in accordance with subsection 167 (1), except that the maximum allowance shall be based upon the enrolment in French-language instructional units and subsection 167 (5) applies with necessary modifications to such member.

Attendance
at meetings
and
conferences

(2) The board may authorize a member of the committee to attend on the same basis as a member of the board such conferences and meetings as the board considers necessary or desirable for the effective functioning of the committee, and subsections 167 (3) and (4) apply with necessary modifications to a member of the committee.

(3) The board shall, on behalf of the members of the committee, pay all or part of a fee required for membership in a provincial association of French-language committees where the committee desires such membership. 1974, c. 109, s. 264.

Provincial
association
membership
fee

271. Notwithstanding any other provision in this Part, English or Anglais shall be an obligatory subject of instruction for every pupil of grades 9 to 12 who is enrolled in a French-language school and shall be a required subject for a certificate or diploma issued to such a pupil. 1974, c. 109, s. 265.

English or
Anglais
as subject
required in
grades 9 to 12

272.—(1) Where a board has provided one or more French-language secondary schools and a number of pupils of the board elect to be taught in the English language, section 261 applies with necessary modifications in respect of provision for the use of the English language in instruction.

English-
language
classes
where
French-
language
school or
classes
established

(2) Where the number of English-speaking pupils of a board is fewer than the number of pupils of the board for whom French is the language of instruction and,

Establish-
ment of
English-
language
advisory
committee

(a) ten or more English-speaking ratepayers of the secondary school district apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the English language is or is to be used in instruction; or

(b) the board establishes or extends or decides to establish or extend a class, group or program in which the English language is or is to be used in instruction,

the board shall establish an English-language advisory committee, and the provisions of sections 260 to 273 that apply to a committee in respect of the French-speaking ratepayers, pupils and community and in respect of French-language instructional units apply with necessary modifications to an English-language advisory committee in respect of the English-speaking ratepayers, pupils and community and in respect of schools or classes in which English is the language of instruction. 1974, c. 109, s. 266.

273.—(1) A board, on the request of an English-speaking pupil of the board or, where the pupil is a minor, of his parent or guardian, may admit the pupil to a French-language instructional unit if his admission is approved by a majority vote of an admissions committee appointed by the board and composed of the principal of the school in which the French-language instructional unit is operated, a French-language teacher of such school and, subject to subsection (2), a French-speaking supervisory officer employed by the board.

Admission
of pupils
other than
French-
speaking
pupils

Where board
has no
French-
speaking
supervisory
officer

(2) Where the board does not employ a French-speaking supervisory officer, it shall arrange for a French-speaking supervisory officer employed by another board or by the Minister to serve as a member of the admissions committee. 1974, c. 109, s. 267.

Languages of Instruction Commission of Ontario

Interpre-
tation

274. In this Part,

- (a) "Commission" means the Languages of Instruction Commission of Ontario established under this Part;
- (b) "committee" means a French-language advisory committee or an English-language advisory committee established under section 262;
- (c) "ratepayer" in respect of a board means a person entitled to vote at an election of members of the board. 1974, c. 109, s. 268.

Establish-
ment of
Commission

275.—(1) A commission to be known as the Languages of Instruction Commission of Ontario is hereby established and shall be composed of five members appointed by the Lieutenant Governor in Council at least two of whom shall be French-speaking and at least two of whom shall be English-speaking, and one of the members shall be appointed as chairman.

Term,
reappoint-
ment and
remunera-
tion

(2) Members of the Commission shall hold office for a term of three years, may be reappointed, and shall be paid such remuneration as may be determined by the Lieutenant Governor in Council.

Vacancies

(3) Where a vacancy occurs in the membership of the Commission, the vacancy may be filled for the unexpired portion of the term of the person whose office has become vacant.

Commission
is responsi-
ble to the
Minister

(4) The Commission is responsible to the Minister for its operation and shall be assisted by such employees in the public service of Ontario as the Minister may assign for the purpose and may, as required from time to time, obtain the services of a lawyer.

Quorum

(5) A quorum consists of three members of whom at least one shall be French-speaking and one English-speaking.

Recom-
mendation

(6) A recommendation of the Commission requires the approval of at least a majority of the members of the Commission.

(7) The Commission shall consider matters referred to it by committees and requests for advice and assistance on questions in respect of which a committee may make recommendations, from boards and committees, and where there is no committee, from a group of ratepayers of the board concerned determined by the Commission to be representative of the French-speaking or English-speaking minority, as the case may be, within the jurisdiction of the board.

Duties of
Commission

(8) A group referred to in subsection (7) shall name one of its members as its spokesman.

Spokesman

(9) The Minister may refer to the Commission any matter relating to instruction in the French language or, where the pupils of a board who receive instruction in the English language are a minority of the pupils of a board, any matter relating to instruction in the English language.

Referral to
Commission
by Minister

(10) Where, within the area of jurisdiction of a board, there is doubt as to whether the French-speaking or English-speaking pupils are in the minority, the Commission has the power to determine whether there shall be a French-language advisory committee or an English-language advisory committee, or both, and the board shall establish such committee or committees as the Commission determines.

Determina-
tion by
Commission
re establish-
ment of
advisory
committee

(11) Where, within thirty days of the election of a committee, the board or the committee requests the Commission to investigate an alleged irregularity respecting the election of a member of the committee, the Commission shall investigate such election and give the member an opportunity to make representation to the Commission and shall declare the member to be elected if the Commission finds the election and procedures to be substantially in accordance with this Part or declare his seat vacant if the Commission finds the election and procedures not to be substantially in accordance with this Part and shall send a copy of its decision and reasons therefor to the board or committee and to the member.

Investigation
of
irregularity

(12) When a matter is referred to the Commission, the board concerned shall defer action thereon until the matter has been resolved.

Deferral of
action by
board

(13) When a matter is referred to the Commission it shall,

Commission
shall request
mediation
or reject
referral

(a) forthwith appoint one or more mediators where it considers that the furtherance of such matter may be conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community; or

- (b) except where a matter is referred by the Minister, take no further action where it considers that the furtherance of such matter is not conducive to meeting the educational and cultural needs of the French-speaking or the English-speaking community.

Where
referral
rejected

(14) Where the Commission takes no further action on a referral it shall forthwith send notice in writing of its decision and of the reasons therefor to the board, the Minister and either the committee or the spokesman referred to in subsection (8).

Notice of
appointment
of mediator

(15) Where the Commission makes an appointment under subsection (13) it shall communicate the name and address of each mediator to,

- (a) the Minister;
- (b) the secretary of the board; and
- (c) the chairman of the committee,

and where a committee has not been established by a board, to the spokesman of the group referred to in subsection (8). 1974, c. 109, s. 269.

Remunera-
tion

276.—(1) Mediators shall be paid such remuneration as the Lieutenant Governor in Council may determine.

Who not
eligible
as mediator

(2) A mediator shall not be a member of the Commission.

Duties of
mediator

(3) The mediator or mediators shall, after inquiring into the matter referred for mediation and conferring with the parties involved, endeavour to bring about an agreement and shall, within twenty-one days of being appointed, report to the Commission the agreement that has been reached, or the failure to bring about agreement.

Extension of
period of
mediation

(4) The period referred to in subsection (3) may be extended by the Commission or by agreement of the parties to the mediation. 1974, c. 109, s. 270.

Duties of
Commission

277.—(1) Where the report of the mediator or mediators to the Commission indicates failure to bring about an agreement, the Commission shall consider and inquire into all pertinent aspects of the matter referred to mediation and shall, within twenty-one days of its receipt of the report, recommend to the board in writing a course of action that it considers appropriate to settle the matter and shall send

copies of its recommendation to the Minister and either the committee or the spokesman referred to in subsection 275 (8).

(2) Within thirty days of its receipt of a copy of the recommendation of the Commission, the board shall report in writing to the Minister its decision in respect of the recommendation of the Commission and shall forward copies of the decision to the Commission and to the committee or spokesman of the group, as the case may be. 1974, c. 109, s. 271.

Report of
board to
Minister

PART XII

TRANSITIONAL PROVISIONS

278.—(1) Where the Lieutenant Governor in Council designates a date for the purposes of subsections 32 (5) and (6), subsection 39 (3), subsection 47 (1) and subsection 209 (3) or any of them, such designation may have general application or may relate to such board or boards as may be set out in the designation.

Date and
scope of
designation

(2) Where the Lieutenant Governor in Council designates a date for the purposes of subsection 32 (5) and subsection 209 (3) in respect of a divisional board, subsection 55 (5) ceases to apply to such divisional board.

Application
of s. 55 (5)

(3) Effective the date designated by the Lieutenant Governor in Council for the purposes of subsection 39 (3), or the 31st day of December, 1984, whichever occurs first, in relation to The Metropolitan Separate School Board and The Metropolitan Toronto School Board, subsection 39 (4) ceases to operate and the cost of operation of schools for trainable retarded children operated by The Metropolitan Toronto School Board shall be included in the estimates of such board for public elementary school purposes. 1980, c. 61, s. 22.

Application
and
operation
of s. 39 (4)

CHAPTER 130

Egress from Public Buildings Act

1. In every church, school, hall, house or other building used for holding public meetings or as a place of public resort or amusement, every outer door and every door leading from every assembly room or school room shall be hinged so that it will open outwards freely, and every gate of an outer fence, if not so hinged, shall be kept open by proper fastenings during the time the building is used for public purposes, in order to facilitate the egress of the public in case of alarm from fire or other cause. R.S.O. 1970, c. 139, s. 1.

Doors of
public
buildings
to open
outwards

2. Every congregation or society possessing corporate powers, and every trustee, incumbent, churchwarden or other person holding churches, schools or buildings used for churches or schools are severally liable, as trustees for such societies, congregations or schools, to the provisions of this Act. R.S.O. 1970, c. 139, s. 2.

Liability of
ecclesiastical
or other
bodies with
corporate
powers

3.—(1) Every person who owns, possesses or manages a church, school, hall, house or other building used for holding public meetings or as a place of public resort or amusement who contravenes any of the provisions of this Act or the regulations made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$50.

Offence

(2) If any changes necessary to comply with this Act and the regulations made under this Act are not made, the person offending is liable to a further fine of \$5 for every week succeeding that in which the information is laid. R.S.O. 1970, c. 139, s. 3.

Further
penalty
for delay

4. The Lieutenant Governor in Council may make regulations for the enforcement of this Act and the safety and convenience of persons assembled in buildings coming within this Act. R.S.O. 1970, c. 139, s. 4.

Regulations

CHAPTER 131

Elderly Persons Centres Act

1. In this Act,

Interpre-
tation

- (a) “approved centre” means a centre approved under section 2;
- (b) “approved corporation” means a corporation approved under section 2;
- (c) “centre” means all or any part of a building or buildings maintained and operated to provide social, recreational or other services for elderly persons;
- (d) “corporation” means a corporation without share capital having objects of a charitable nature,
 - (i) to which Part III of the *Corporations Act* R.S.O. 1980, c. 95 applies, or
 - (ii) that is incorporated under a general or special Act of the Parliament of Canada;
- (e) “Director” means the Director appointed for the purposes of this Act;
- (f) “Minister” means the Minister of Community and Social Services;
- (g) “municipality” means a city, town, village or township and includes an area municipality within a metropolitan, regional or district municipality, but does not include a metropolitan, regional or district municipality;
- (h) “regulations” means the regulations made under this Act. R.S.O. 1970, c. 140, s. 1; 1972, c. 158, s. 1; 1973, c. 145, s. 1.

2.—(1) Where the Minister is satisfied that any corporation is, with assistance in accordance with this Act, financially capable of establishing, maintaining and operating a centre and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation as a corporation for the purposes of this Act. 1971, c. 50, s. 35 (1), *part*; 1973, c. 145, s. 2 (1). Approval of
corporation

Approval
of building

(2) Where the Minister is satisfied that all or any part of a building or buildings or premises is suitable for providing accommodation as a centre in accordance with this Act and the regulations, he may approve such building or premises or part thereof, as the case may be, as a centre for the purposes of this Act. 1971, c. 50, s. 35 (1), *part*; 1973, c. 145, s. 2 (2).

Effective
date of
approval

(3) An approval given under subsection (2) may take effect on any date fixed by the Minister that is prior to the date on which the approval is given, but in no case shall the date upon which the approval takes effect precede the date of the approval given under subsection (1) to the corporation maintaining and operating the centre or the date of the approval given under section 3 to the municipal by-law establishing the centre, as the case may be. 1971, c. 50, s. 35 (1), *part*; 1972, c. 158, s. 2; 1973, c. 145, s. 2 (3).

Establish-
ment of
centres

3.—(1) The council of a municipality may by by-law approved by the Minister provide for the establishment and operation of centres and may acquire by purchase, lease or otherwise real and personal property for that purpose. R.S.O. 1970, c. 140, s. 3 (1); 1972, c. 158, s. 3.

By-laws
re grants

(2) The council of a municipality may pass by-laws granting aid to centres. R.S.O. 1970, c. 140, s. 3 (2).

Capital
grants to
centres

4.—(1) The Minister may out of moneys appropriated therefor by the Legislature direct payment to a municipality or to an approved corporation for the erection, alteration, extension, renovation, acquisition or the furnishing and equipping of a centre of an amount determined by the regulations but not exceeding 30 per cent or such higher percentage as the regulations prescribe of the cost thereof to the municipality or to the approved corporation, but no payment shall be made to the approved corporation unless the council of the municipality in which the building or premises of the corporation to be used as a centre is situate, or the council of that municipality together with the councils of one or more contiguous municipalities, directs payment to the approved corporation of a sum equal to at least 20 per cent of the cost so computed or contributes to the approved corporation real or personal property approved by the Minister that is equivalent in value to at least 20 per cent of the said cost. 1972, c. 158, s. 4.

Maintenance
and operat-
ing grants

(2) There shall be paid to every municipality or approved corporation a sum computed in accordance with the regulations towards the cost of maintaining and operating its approved centre, but no payment shall be made to the

approved corporation unless the council of the municipality in which the centre operated by the corporation is situate, or the council of that municipality together with the councils of one or more contiguous municipalities, directs payment to the approved corporation of a sum equal to at least the percentage prescribed by the regulations of the cost as so computed or contributes to the approved corporation personal property or services, approved by the Minister, equivalent in value to at least the prescribed percentage of the said cost. R.S.O. 1970, c. 140, s. 4 (2).

5. The Minister may out of moneys appropriated therefor by the Legislature direct payment of grants in accordance with the regulations in respect of the cost of those services, facilities or research for elderly persons for which grants by Ontario are not otherwise payable under this Act. 1972, c. 158, s. 5, *part.* Special grants

6. Before selecting or acquiring a site, or erecting or acquiring all or any part of a building or an addition thereto for use as a centre in respect of which a grant is payable by Ontario under this Act, the municipality or corporation establishing or adding to the centre shall establish the need for the centre or the addition thereto to the satisfaction of the Minister and shall, Evaluation and survey

- (a) evaluate the site in accordance with the regulations to determine whether it will best serve the program of the centre and the best interests of the elderly persons to be served by the centre;
- (b) conduct a survey of the community and a review of population requirements in accordance with the regulations,

and submit a report thereof to the Minister. 1972, c. 158, s. 5, *part.*

7. No grant under subsection 4 (1) shall be made until, Approval of plans

- (a) in the case of the erection or acquisition of all or any part of a building or an addition thereto, the site thereof, selected and evaluated in accordance with the regulations, has been approved by the Minister; and
- (b) the plans of the building being erected, altered, extended, renovated or acquired, developed and prepared in accordance with the regulations,

have been approved in writing by the Minister. 1972, c. 158, s. 5, *part.*

Approval
of changes

8.—(1) No approved corporation that has been paid financial aid from Ontario under this Act in respect of an approved centre shall,

(a) change its name or the name of the approved centre;
or

(b) change the site or sell or otherwise dispose of any part of or structurally alter the approved centre,

without the written approval of the Minister. R.S.O. 1970, c. 140, s. 7 (1); 1972, c. 158, s. 6.

Approval of
by-laws

(2) No by-law of a municipality or an approved corporation that affects an approved centre in respect of which a grant has been paid under this Act has effect until it is approved in writing by the Minister. R.S.O. 1970, c. 140, s. 7 (2).

Suspension
or revocation
of approval

9.—(1) Subject to this section, any approval given under this Act may be suspended or revoked by the Minister if,

(a) any director, officer or servant of the approved corporation or municipality has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or

(b) the approval would be refused if application were being made for it in the first instance. 1971, c. 50, s. 35 (2), *part*; 1973, c. 145, s. 3 (1).

Hearing

(2) Subject to subsection (6) and except where an approval is suspended or revoked with consent, before suspending or revoking an approval to a corporation or to a centre operated by an approved corporation given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person appointed by the Minister. 1971, c. 50, s. 35 (2), *part*; 1973, c. 145, s. 3 (2).

Application of
R.S.O. 1980,
c. 484

(3) Sections 4 to 16 and 21 to 24 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section.

Report

(4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information

or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations and his recommendations as to the suspension or revocation of the approval and shall send a copy of his report to the persons affected. 1971, c. 50, s. 35 (2), *part*.

(5) After considering a report made to him under this section, the Minister may thereupon suspend or revoke the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor. 1971, c. 50, s. 35 (2), *part*; 1973, c. 145, s. 3 (3).

Decision of
Minister

(6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the health or safety of any person or to the public and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections (2) to (5) apply. 1971, c. 50, s. 35 (2), *part*.

Provisional
suspension

10.—(1) The Director shall exercise general supervision over the administration of this Act and the regulations and carry out such other duties as are assigned to him by this Act and the regulations.

Duties of
Director

(2) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such employee of the Ministry of Community and Social Services as the Minister designates.

Acting
Director

(3) The Director, with the consent in writing of the Deputy Minister of Community and Social Services, may authorize any employee or class of employee of the Ministry of Community and Social Services to exercise and discharge any of the powers conferred or the duties imposed upon him under this Act and the regulations. R.S.O. 1970, c. 140, s. 9; 1972, c. 1, s. 19 (3).

Delegation
of power

11. The Lieutenant Governor in Council may make regulations,

Regulations

(a) governing applications for grants;

(b) for the purpose of subsection 4 (1), prescribing,

(i) the manner of determining the amount of the grants payable thereunder,

- (ii) the components that may be included in and the manner of computing the cost to an approved corporation of erecting, altering, extending, renovating or acquiring or furnishing and equipping buildings or premises, and
 - (iii) a higher percentage for the maximum amount of a grant payable by Ontario;
- (c) prescribing the manner of computing the grants mentioned in subsection 4 (2);
 - (d) respecting the grants mentioned in section 5;
 - (e) prescribing the terms and conditions upon which grants may be made;
 - (f) prescribing the method, time and manner of the payment of grants;
 - (g) prescribing procedures for selecting and evaluating the site of a building to be erected, acquired or added to by a corporation or municipality, and for conducting a survey of the community and a review of population requirements and the contents of a report to be submitted to the Minister under section 6;
 - (h) prescribing procedures for the development and preparation of plans for sites and buildings and the information to be contained in such plans;
 - (i) prescribing the uses to which approved centres may be put, the programs of services to be provided therein and the rules governing the operation of such centres;
 - (j) prescribing additional duties of the Director;
 - (k) prescribing the records that shall be kept under this Act and the returns that shall be made to the Minister;
 - (l) prescribing forms and providing for their use. R.S.O. 1970, c. 140, s. 10; 1971, c. 50, s. 35 (3); 1972, c. 158, s. 7; 1973, c. 145, s. 4.

Moneys

12. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 140, s. 11.

CHAPTER 132

Elderly Persons' Housing Aid Act

1.—(1) In this Act, “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council. 1972, c. 1, s. 90 (1). ^{Interpretation}

(2) The Minister may grant aid to any corporation whose objects are exclusively for charitable purposes or any limited-dividend housing corporation incorporated by or on behalf of a municipality or approved by a municipality that has had a loan made to it under the *National Housing Act* (Canada) to assist it in any project for the construction and equipment of low rental housing units for elderly persons. R.S.O. 1970, c. 141, s. 1; 1972, c. 1, s. 90 (1, 2). ^{Grant in aid authorized} ^{R.S.C. 1970, c. N-10}

2. The amount of such a grant shall be calculated at the rate of \$500 for each dwelling unit or 50 per cent of the capital cost of the project, exclusive of that part of the capital cost of the project that is financed by way of loan under the *National Housing Act* (Canada), whichever is the lesser. R.S.O. 1970, c. 141, s. 2. ^{Amount}

3. Grants under this Act shall be paid out of the Consolidated Revenue Fund. R.S.O. 1970, c. 141, s. 3. ^{Source}

4. The Lieutenant Governor in Council may make regulations, ^{Regulations}

(a) prescribing the terms and conditions upon which and the manner in which aid may be granted under this Act;

(b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 141, s. 4.

CHAPTER 133

Election Act

INTERPRETATION

1. In this Act,

Interpre-
tation

- (a) “advance poll” means a poll held under section 73;
- (b) “by-election” means an election other than a general election;
- (c) “candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (d) “corrupt practice” means any act or omission, in connection with an election, in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act; R.S.C. 1970,
c. C-34
- (e) “election” means an election of a member or members to serve in the Assembly;
- (f) “electoral district” means an electoral district as set out in the *Representation Act*; R.S.O. 1980,
c. 450
- (g) “general election” means an election in respect of which election writs are issued for all electoral districts;
- (h) “official agent” means the agent appointed by a candidate under section 47;
- (i) “polling list” means the list of voters furnished to a deputy returning officer by the returning officer in accordance with this Act;

- (j) "polling subdivision" means a polling subdivision established by the returning officer under section 9;
- (k) "prescribed" means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;
- (l) "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
1. The place where a person's family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
 3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,
 - a. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
 - b. he has no quarters in any other electoral district to which he might at will remove.
- (m) "scrutineer" means any person at least sixteen years of age who is appointed by a candidate or his official agent to represent the candidate in a polling place. R.S.O. 1970, c. 142, s. 1; 1971, c. 100, s. 1, *revised*.

OATHS

Oaths,
who to
administer

2.—(1) Except where otherwise provided, an oath for the purposes of this Act may be sworn before a justice of the

peace, a commissioner for taking affidavits or a notary public.

(2) Returning officers and election clerks may administer ^{Idem} any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be administered to the returning officer.

(3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. ^{No charge for administering oaths}
R.S.O. 1970, c. 142, s. 2.

PART I

APPOINTMENTS

CHIEF ELECTION OFFICER

3.—(1) The Lieutenant Governor in Council shall ap- ^{Appointment of C.E.O. and A.C.E.O.} point a Chief Election Officer, and may appoint an Assistant Chief Election Officer.

(2) The Chief Election Officer shall consult with, advise ^{Powers and duties of C.E.O.} and supervise the returning officers, deputy returning officers and poll clerks in the performance of their duties, and, where necessary, shall visit in person and consult with the returning officer with a view to facilitating the preparation of the lists and the carrying out of this Act.

(3) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the like powers and shall perform the like duties as the Chief Election Officer. ^{Powers and duties of A.C.E.O.}

(4) Where, in the opinion of the Chief Election Officer, an emergency exists, for which no provision is made, he may give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to any candidate whom he thinks may be affected by such direction. ^{In cases of emergency}

(5) The Chief Election Officer may provide for such clerical ^{Clerical assistance} and other assistance as is necessary in the performance of his duties, and the Lieutenant Governor in Council may authorize the issue of accountable warrants from time to time for payment of travelling and other expenses and for remuneration of such officers and of persons employed in the office of the Chief Election Officer.

Forms

(6) The Chief Election Officer may make regulations prescribing the forms for use under this Act. R.S.O. 1970, c. 142, s. 3.

RETURNING OFFICERS

Appointment
of R.O.

4.—(1) The Lieutenant Governor in Council shall appoint a returning officer for every electoral district.

Qualifications
of R.O.

(2) Every person appointed returning officer shall be a Canadian citizen or other British subject of voting age and resident in Ontario.

Refusal or
incapacity
to act

(3) If the person appointed returning officer under subsection (1) dies, or refuses to act, or is incapacitated or is discharged in accordance with subsection (7), (8) or (9), the Lieutenant Governor in Council may appoint some other person to be returning officer.

Notification
of appoint-
ment

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act.

Clerical
assistance

(5) Subject to the approval of the Chief Election Officer, every returning officer may provide for such clerical and other assistance as is necessary in the performance of his duties.

Oath of
R.O.

(6) Every returning officer, immediately upon receiving notice of his appointment, shall take and subscribe the prescribed oath.

Term of
office

(7) A returning officer who is appointed under this Act shall continue in office until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection (8) or (9).

Removal
from office

(8) The Lieutenant Governor in Council may remove from office any returning officer who,

(a) has attained the age of sixty-five years; or

(b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.

Idem

(9) The Chief Election Officer may remove from office any returning officer who has failed to discharge competently his duties, or any of them, under this Act.

Endorsement
on writ

(10) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt.

(11) If a writ for an election has been issued to a person in whose stead a returning officer has been appointed under subsection (3), a new writ may be issued or the new returning officer may act under the writ already issued as if it had been addressed to him, and the validity of the proceedings had or taken under the first appointment is not affected by the new appointment, but the new returning officer may appoint a new election clerk, if he thinks fit, in the place of the person, if any, appointed to such office by the person previously named returning officer. R.S.O. 1970, c. 142, s. 4.

Where
appointment
superseded

ASSISTANT REVISING OFFICERS

5.—(1) Subject to the approval of the Chief Election Officer, every returning officer may appoint an assistant revising officer to assist him with the revision of the list of voters.

Assistant
revising
officer

(2) Every assistant revising officer shall have the like qualifications as a returning officer and, upon being appointed, shall take and subscribe the prescribed oath. 1971, c. 100, s. 2.

Oath

6.—(1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

Persons
excluded
from being
returning
officers, etc.

1. Members of the Executive Council.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Parliament of Canada or of the Assembly.
4. Judges of federal or provincial courts.
5. Persons who have served as members of the Assembly in the session next preceding the election or, if a by-election takes place during a session of the Assembly, persons who are serving in that session.
6. Persons who have at any time been found guilty of a corrupt practice.

(2) A contravention of this section does not affect the validity of the election. R.S.O. 1970, c. 142, s. 5.

Validity of
election not
affected

ELECTION CLERKS

7.—(1) The returning officer, before nomination day, shall appoint in writing a person to be his election clerk, who shall continue in office only for the duration of the election for which he was appointed.

Appointment
of election
clerk

Death or
default of
election
clerk

(2) The returning officer, at any time during the election, may appoint in writing another election clerk if the one previously appointed dies or refuses or neglects or is unable to perform his duties.

Duties

(3) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or refuses or is disqualified or unable to perform his duties and has not been replaced by another, shall act in his stead as returning officer.

Oath of
election
clerk

(4) The election clerk before entering upon his duties shall take and subscribe the prescribed oath. R.S.O. 1970, c. 142, s. 6.

PART II

PROCEEDINGS PRELIMINARY TO ELECTION

DATES FOR NOMINATION AND POLLING

Nomination
day and
election day

8.—(1) When an election is to be held, the Lieutenant Governor in Council may appoint a day for nomination of candidates, which day shall be a Thursday,

(a) not more than sixty and not less than twenty-three days after the date of the writs of election where the nomination day appointed is in the months from May to October inclusive; or

(b) not more than sixty and not less than thirty days after the date of the writs of election where the nomination day appointed is in the months from November to April inclusive.

Polling day

R.S.O. 1980,
c. 219

(2) The day on which polling shall take place shall be the fourteenth day after nomination day unless that Thursday is a holiday, as defined by the *Interpretation Act*, or is declared to be a holiday by law and in any such case the day fixed for the poll shall be Friday of the same week.

Date to be
same in all
electoral
districts

(3) In the case of a general election, the nominations shall be held on the same day for all electoral districts and the respective days for the nomination and for the polling shall be stated in the proclamation for the election.

Writs to
bear same
date

(4) The writs for a general election shall be dated on the same day.

Writs to
state
nomination
and polling
days

(5) A writ of election shall state the respective days for the nomination and for the polling and is returnable forthwith after the execution thereof. R.S.O. 1970, c. 142, s. 7.

POLLING SUBDIVISIONS

9. The returning officer shall divide his electoral district into polling subdivisions and shall, so far as is practicable, adopt the municipal polling subdivisions. R.S.O. 1970, c. 142, s. 8. ^{Polling subdivisions}

QUALIFICATION OF VOTERS

10.—(1) In any electoral district in which an election to the Assembly is held, every person who, at the time of voting, ^{Who may vote}

- (a) has attained eighteen years of age;
- (b) is a Canadian citizen or other British subject;
- (c) is not disqualified under this Act or otherwise prohibited by law from voting;
- (d) has resided in Ontario for the twelve months next preceding the day of polling; and
- (e) resides in the electoral district,

is qualified to vote at such election. R.S.O. 1970, c. 142, s. 9 (1); 1971, c. 98, s. 4, Sched. par. 12.

(2) For the purpose of this section, a statutory declaration by a person claiming to be a Canadian citizen or other British subject is *prima facie* evidence of the facts declared to. R.S.O. 1970, c. 142, s. 9 (2). ^{Evidence of citizenship}

11. No judge of any court is qualified to vote in any election. 1974, c. 82, s. 1. ^{Judges disqualified}

12. No returning officer or election clerk is entitled to vote, but this provision does not affect the duty of the returning officer to give a casting vote. R.S.O. 1970, c. 142, s. 10. ^{Disqualification of certain officers}

13. Persons who are prisoners in penal or reform institutions, or who are patients in mental hospitals, or who have been transferred from mental hospitals to homes for special care as mentally incompetent are disqualified from voting. R.S.O. 1970, c. 142, s. 11. ^{Disqualification of convicts, mentally ill persons, etc.}

ENUMERATION

14. Every returning officer, forthwith after receipt of a writ of election, shall appoint in writing, for each polling subdivision in the electoral district, two persons of voting ^{Enumerators}

age to be enumerators of the voters in such subdivision and to prepare a list thereof, and shall require each of such persons to take the prescribed oath. R.S.O. 1970, c. 142, s. 12.

Candidates

15. No candidate shall be an enumerator. R.S.O. 1970, c. 142, s. 13.

**Enumerators
to act jointly**

16. Each enumerator shall exercise the utmost care in the preparation of the list of voters, and the two enumerators appointed for each polling subdivision shall, in relation to each process in the preparation of the list of voters, act jointly and not individually, and, in case of any disagreement, they shall report the matter to the returning officer and in all respects are bound by his decision. R.S.O. 1970, c. 142, s. 14.

**Selection of
enumerator**

17. The returning officer shall, as far as possible, select and appoint the two enumerators for each polling subdivision so that they represent two different political interests, as provided in section 18. R.S.O. 1970, c. 142, s. 15.

**Nomination
of
enumerators**

18.—(1) Forthwith after the issue of the writ for an election,

(a) the person who apparently will be the candidate at the election of the political interest represented by the government of the day; and

(b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators, and such lists may be revised from time to time up to forty-eight hours before the enumeration is to begin.

Idem

(2) If forty-eight hours before the enumeration is to begin the returning officer has received insufficient nominations to provide two enumerators representing two different political interests for each polling subdivision, he shall make such additional appointments as he considers necessary to enumerate the electoral district. R.S.O. 1970, c. 142, s. 16.

**Enumerators'
equipment**

19.—(1) The returning officer shall supply each pair of enumerators with,

(a) enumerators' record forms;

(b) forms for lists of voters; and

(c) notices of inability to obtain information.

(2) The enumerators shall forthwith upon their appointment, ^{Preparation of list} by means of,

(a) a joint house-to-house canvass; and

(b) such other sources as may be available to them,

prepare a list of voters under headings of names of streets where possible and in the order of street numbers in subdivisions in which street numbering is in effect, and in alphabetical order in all other subdivisions, of all persons in the polling subdivisions who are qualified to vote at the election.

(3) The name and address of every person entitled to be entered on the list of voters shall, at the time of visiting the dwelling place of such person, be entered on an enumerators' record which shall be signed by both enumerators, and a duplicate thereof shall be detached from the book and left at such dwelling place. ^{Enumerators' record}

(4) In making the house-to-house canvass, the enumerators shall visit every dwelling place in the polling subdivision, ^{House-to-house canvass}

(a) at least once between 9 a.m. and 7 p.m.; and

(b) unless they have ascertained from an occupant of each such dwelling place that no person residing therein remains to be entered on the list, at least once between 7 p.m. and 10 p.m.,

and, where, upon making the last of such visits, the enumerators are unable to secure all the information necessary, they shall leave at such dwelling place a notice of inability to obtain information.

(5) The enumerators shall at all reasonable times and upon producing proper identification be given free access for the purposes of enumeration to the entrance door to each dwelling unit in any building having more than one dwelling unit. ^{Enumerators to have free access}

(6) No person shall wilfully obstruct or interfere with an enumerator in the performance of any of his duties or in the exercise of his rights under this Act. ^{Obstruction, etc., of enumerators} R.S.O. 1970, c. 142, s. 17.

20.—(1) The enumerators, immediately after the completion of the list of voters and not later than four days from the date of their appointment, shall, ^{Verification and disposition of list by enumerators}

(a) verify the list by prescribed oath;

- (b) deliver it to the returning officer together with the book of enumerators' record forms used in the preparation of the list; and
- (c) prepare three legibly typewritten copies of such list so verified, one for delivery by the returning officer to the printer, one to be posted up in the office of the returning officer, and one to be posted by the enumerator in a conspicuous place in the polling subdivision for which the list was prepared.

Copy of
list to
candidates

(2) The returning officer shall furnish each candidate as soon as possible with one copy of the list of voters.

Printing of
preliminary
list

(3) The returning officer, forthwith upon receipt of the list of voters from the enumerators, shall cause it to be printed and shall furnish each candidate or his official agent with twelve printed copies of the list of voters for each polling subdivision. R.S.O. 1970, c. 142, s. 18.

Enumerator
refusing
to act

21. Every enumerator who wilfully neglects; omits or refuses to perform any of his duties under this Act forfeits his right to payment for any services already rendered. R.S.O. 1970, c. 142, s. 19.

Enumerator
replaced

22. The returning officer may at any time replace any enumerator appointed by him by appointing another enumerator to act in his place and stead and, upon receiving notice in writing from the returning officer of his replacement, the enumerator so replaced shall forthwith deliver to the returning officer his credentials and all papers and materials supplied to him. R.S.O. 1970, c. 142, s. 20.

PROCLAMATION

Proclamation
by R.O.

23.—(1) The day following completion of the enumeration, the returning officer shall by proclamation, declare,

- (a) the place and time fixed for the nomination of candidates;
- (b) the hours and days of the week during which he will be in his office to revise the list of voters, as directed by the Chief Election Officer;
- (c) the day fixed for holding the poll for taking the votes of the voters in case a poll is granted; and
- (d) the time and place fixed for adding up the number of votes given to each candidate.

(2) The returning officer shall issue the proclamation to be posted up in adequate numbers and in conspicuous places on public or private property throughout the electoral district and to be published in newspapers having a general circulation in the electoral district. R.S.O. 1970, c. 142, s. 21.

Posting of
proclamation

SPECIAL ENUMERATION

24.—(1) Any voter whose name is omitted from the list of voters as prepared by the enumerators, or any person who has knowledge of the fact that the name or names of any other voter or voters has or have been so omitted, may so inform the returning officer in writing stating the names and addresses of the voters so omitted.

Special
enumeration

(2) The returning officer, before the preparation of the polling lists, shall cause an enumeration to be made of all voters of whom such notice has been given, and the enumerators shall visit the addresses and enumerate such voters and any other voters at those addresses whose names have been omitted from the list of voters.

Idem

(3) The returning officer shall appoint enumerators for the purposes of subsection (2) from among those who have already acted as such for the pending election or, if necessary, shall appoint others in the manner provided by sections 17 and 18. R.S.O. 1970, c. 142, s. 22.

Enumerators
for special
enumeration

REVISION

25. Assistant revising officers appointed under section 5 have the same powers and duties as a returning officer respecting the revision of lists of voters, and all references to the returning officer in sections 26 to 36 shall be deemed to include assistant revising officers. 1971, c. 100, s. 3.

Powers of
assistant
revising
officers

26. The returning officer shall permit to be present in his office during the hours of revision of the list of voters a representative of each recognized political interest in the electoral district but no such representative, except with the permission of the returning officer, has any right to take part or intervene in the proceedings. R.S.O. 1970, c. 142, s. 23.

Revision

Changes and Additions

27.—(1) A person resident in any polling subdivision whose name has not been included or has been incorrectly included by the enumerator in the list of voters for such subdivision may apply to the returning officer to have his name included in the list or to cause the entry in the list relating to him to be corrected.

Who may
apply to be
registered
or have
correction
made

Application
to be
entered on
list to be
signed

(2) Every person so applying shall sign an application in which all the information shall be sufficiently filled in either by the applicant personally or by the returning officer at the applicant's request, and before entering the name of the person in the list of voters or before correcting the list, as the case may require, the returning officer shall satisfy himself that the applicant understands the effect of the statements in the application and that he is entitled to have his name included on the list or to have the list corrected pursuant to his request.

Absence
through
sickness, etc.,
relative or
employer
may appear

(3) If a person who claims to be entitled to have his name included in the list of voters or to have the entry relating to him therein corrected is unable to attend in person by reason of sickness or disability or unavoidable absence from the electoral district, a relative of such person by blood or marriage or his employer may appear before the returning officer and complete the application to have such person's name included in the list of voters or to have the list corrected, as the case may be.

Evidence to
be produced
by relative
or employer

(4) If the relative by blood or marriage or the employer so appearing substantiates,

- (a) the cause for the non-appearance of the person immediately concerned to be as set out in sub-section (3);
- (b) the existence of a relationship by blood or marriage or the relationship of employer and employee; and
- (c) the facts relevant to the qualification, name, address or identity of the person immediately concerned so far as such facts are requisite to cause the name of the person to be included in the list of voters or to cause the list to be corrected, as the case may be,

the returning officer may act upon the application as if the person immediately concerned had appeared in person before him.

Interpreter
where
necessary

(5) When the language of the applicant is not understood by the returning officer, an interpreter may be sworn and may act, but in the event of inability to secure an interpreter, the application shall, for the time being, be refused. R.S.O. 1970, c. 142, s. 24.

Returning
officer to
enter name
when
satisfied
applicant is
qualified

28. If it appears to the returning officer that the applicant understands the effect of the statements in the application and that the applicant's name should be included in the list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application. R.S.O. 1970, c. 142, s. 25.

29. If, in the opinion of the returning officer, the statements made by the applicant in his application do not show that the applicant is entitled to have his name included in the list or to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. R.S.O. 1970, c. 142, s. 26.

Procedure where application refused

Complaints re names on List

30.—(1) Within seven days after the list of voters is posted up by the enumerators, any voter may file with the returning officer a complaint, on the prescribed form, that there has been included in the list of voters the name or names of persons who should not be entered therein.

Complaint for wrongful entry on list

(2) The returning officer upon receipt of the complaint shall forthwith cause to be sent by registered mail to the person objected to at the address mentioned in the list and to such other address, if any, as may be mentioned in the complaint, a notice requiring such person to appear in person or by his representative before him on a day to be named in the notice.

Notice to persons objected to

(3) There shall be sent with the notice a copy of the complaint of the voter making the complaint.

Copy of complaint

(4) On the day of hearing named in the notice, the person filing the complaint shall attend before the returning officer and establish to the satisfaction of the returning officer the validity of such complaint and the returning officer, after receiving an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the complaint was made, may make such order as he considers just under the circumstances. R.S.O. 1970, c. 142, s. 27.

Hearing of complaint

31. The name of a person shall not be removed from the list unless the returning officer is satisfied on oath that due notice of complaint has been given to the person or that the person could not be found and the registered notice could not be delivered. R.S.O. 1970, c. 142, s. 28.

Name not to be struck off without notice

Transfer after Enumeration

32.—(1) A person who was a resident in, and is entered on the list of voters prepared for a polling subdivision in an electoral district or who would have been entitled to be so entered had he remained a resident in such electoral district and who has moved from such electoral district and has become a resident of another electoral district is entitled to be entered on the list of voters in the last mentioned electoral district by the returning officer upon filing with the returning officer an affidavit in the prescribed form and producing such other evidence that he was so entered or entitled to be so entered as the returning officer considers necessary.

Change of residence, removal from one electoral district to another

Certificate

(2) The returning officer shall give a certificate in the prescribed form to every person entered on the list under subsection (1).

Entry after
name of
person so
added

(3) The returning officer shall write "entered under the *Election Act*, section 32" after the name of every person entered on the list under subsection (1).

Production
of certificate
at poll

(4) A person whose name is entered on the list under this section is not entitled to vote unless at the time he requests a ballot he produces to the deputy returning officer the certificate mentioned in subsection (2). R.S.O. 1970, c. 142, s. 29.

Evidence
required

33. The returning officer shall not remove any name from the list or make any other changes therein except upon evidence under oath. R.S.O. 1970, c. 142, s. 30.

Returning
officer's
decision
final

34. The decision of the returning officer with regard to the right of a person to vote or to the right to enter on or strike from the lists the name of a person as a voter is final. R.S.O. 1970, c. 142, s. 31.

Statement of
changes and
additions to
candidates

35. A statement of changes and additions shall be prepared and certified and the returning officer shall forthwith send six copies to each candidate or his official agent. 1971, c. 100, s. 4.

*Polling List*Lists so
revised to
be lists for
the election

36.—(1) The returning officer shall make the appropriate changes in the verified list of voters in accordance with the statement of changes and additions and shall certify the revised list, and shall attach to the revised list a certified copy of the statement of changes and additions.

Lists with
statements
not to affect
result
of election

(2) The returning officer shall prepare the polling list for each polling subdivision by attaching to a certified copy of the revised list a certified copy of the statement of changes and additions, but, if any material difference between its contents and the contents of the list as finally revised is discovered, the returning officer shall furnish the deputy returning officer and each candidate with a certificate of the error, and the polling list shall for all purposes be taken to have been amended in accordance with the certificate. R.S.O. 1970, c. 142, s. 33.

IRREGULARITIES

Irregularities
not to affect
result
of election

37. An irregularity in the preparation or revision of any list of voters is not a ground for questioning the validity of an election. R.S.O. 1970, c. 142, s. 34.

PROXIES

38.—(1) Any qualified voter who is entered on the list of voters for a polling subdivision and who is, Who may vote by proxy

(a) a member of the regular forces of the Canadian Forces or a member of the reserve forces of the Canadian Forces when on active service as defined by the *National Defence Act*; or

R.S.C. 1970,
c. N-4

(b) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water, or motor vehicle; or

(c) a person certified by a legally qualified medical practitioner, by certificate filed with the returning officer, to be physically incapable of attending a polling place; or

(d) a person absent from his regular residence by reason of attending an educational institution, who is entered on the list for the polling subdivision in which he normally resides and who expects by reason of such absence to be unable to vote at the advance poll or on polling day,

may vote by proxy in that polling subdivision. R.S.O. 1970, c. 142, s. 35 (1); 1971, c. 100, s. 5 (1).

(2) Any person who is entitled to vote at an election by proxy under this section may appoint in writing a proxy who shall be a qualified voter in the electoral district in which such person is entitled to vote and who, unless such proxy is the child, grandchild, brother, sister, parent, grandparent, husband or wife of such person, has not been appointed a proxy for any other voter qualified to vote at such election. 1971, c. 100, s. 5 (2). Appointment of proxy

(3) The appointment of a proxy shall name the person authorized to vote at an election for which a writ has been issued for the electoral district, and no appointment of a proxy is valid unless it is made after the date of the issue of the writ of election or remains in force after polling day. R.S.O. 1970, c. 142, s. 35 (3). Term of appointment

(4) A person who has been appointed a voting proxy may apply to the returning officer or assistant revising officer to be Application of proxy to be entered on list

entered upon the list for the polling subdivision in which the person appointing the proxy is entitled to vote.

Evidence to
be taken by
returning
officer or
assistant

(5) The returning officer or assistant revising officer on any day up to and including the last day of the revision shall take evidence on oath as to the right of the person appointing the proxy to vote in the subdivision upon the list for which his name is entered and as to the qualifications of the voting proxy, and, if he finds that the person appointing the proxy is duly qualified and that the voting proxy is qualified to act for the person appointing the proxy, he shall give a certificate across the face of the appointment of the voting proxy to that effect and shall cause the name of the voting proxy to be entered on the polling list after the name of the person appointing the proxy. 1971, c. 100, s. 5 (3).

Not more
than one
proxy

(6) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election.

Oath on
voting

(7) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the returning officer thereon as provided in subsection (5) and takes the prescribed oath.

Record of
voting by
proxy

(8) The deputy returning officer shall record in the poll book the fact that the person appointing the proxy voted by proxy and the name of the proxy, and shall file the proxy and certificate with the election papers and return them to the returning officer in the envelope provided for that purpose.

Proxy may
vote in own
right

(9) A person who has been appointed as a voting proxy is entitled to vote in his own right in the electoral district notwithstanding that he has voted as a proxy. R.S.O. 1970, c. 142, s. 35 (6-9).

PART III

CANDIDATES

QUALIFICATION

Who may
be candidate

39. Every person who,

(a) is of voting age;

(b) is a Canadian citizen or other British subject;

(c) has resided in Ontario for the twelve months next preceding the day of polling; and

(d) is not disqualified by the *Legislative Assembly Act* or R.S.O. 1980,
c. 235
by any other Act,

is qualified to be a candidate. R.S.O. 1970, c. 142, s. 36.

40.—(1) No person who has been engaged as a returning officer, an assistant revising officer or an enumerator in the preparation of the lists of voters to be used at an election is eligible as a candidate at the election. Who may
not be
candidate 1971, c. 100, s. 6.

(2) No person who has been found guilty within eight years of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election. Idem R.S.O. 1970, c. 142, s. 37 (2).

NOMINATION

41. The place for the nomination of candidates shall be the court house, municipal hall or some other building in the most central or the most convenient place for the majority of the voters of the electoral district, and the time appointed for the nomination of candidates shall be from 1 p.m. until 2 p.m. of the day fixed for that purpose. Place and
time of
nomination R.S.O. 1970, c. 142, s. 38.

42.—(1) The returning officer, at the time and place fixed for the nominations, shall make or cause to be made, in the presence of voters there assembled, a pronouncement in the prescribed form, and shall read or cause to be read publicly the writ of election, and he shall then call for nominations or further nominations. Proceedings
on nomina-
tion day

(2) The nomination shall be by writing signed by at least 100 duly qualified electors of the electoral district and stating the name, residence and occupation or description of the person proposed in such manner as will identify him sufficiently, and a person shall be deemed to be a duly qualified elector if he is qualified to be entered on the list of voters as entitled to vote at the election. Nominations
to be in
writing

(3) Each candidate shall be nominated by a separate nomination paper, and a duly qualified elector may sign the nomination papers of different candidates. Separate
nomination
for each
candidate

(4) The nomination paper shall be filed with the returning officer at any time during the ten days immediately preceding nomination day or at any time up to the close of nominations on nomination day. When to
be filed

Consent of
candidate

(5) The nomination paper shall be accompanied by the consent in writing of the person therein nominated, except where such person is absent from Ontario, in which case such absence shall be stated in the nomination paper.

Certificate
of R.O. as to
regularity

(6) Where the nomination paper is filed with the returning officer during the ten days next preceding nomination day or not later than 11 a.m. on nomination day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever.

Nomination
paper

(7) Where the nomination paper is filed with the returning officer after 11 a.m. on nomination day and before the time fixed for the close of nominations,

acceptance

(a) the returning officer shall accept the nomination paper and announce the name of the candidate;

rejection

(b) if, on examination of the nomination paper, it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the Chief Election Officer and shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day next following nomination day, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

Candidate
or agent
need not
attend

(8) In no case is it necessary for a candidate or his official agent to be present at the nomination meeting. R.S.O. 1970, c. 142, s. 39.

Grant of Poll

Grant of
poll

43.—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes and, if he declares a candidate to be elected, the election is void.

Notice of
grant of
poll

(2) When a poll is granted, the returning officer shall cause the prescribed notice thereof to be printed, declaring the polling places fixed by him and the territorial limits to which they respectively apply, and he shall cause the notice to be posted up in the electoral district at least five days before polling day in the same manner as is provided for the posting up of the proclamation. R.S.O. 1970, c. 142, s. 40.

Election by
acclamation

44. If only one candidate is nominated or if by the withdrawal of persons nominated there remains only one candidate, the returning officer, at the expiration of the time

in which nominations may be received, shall close the election and openly proclaim such candidate to be duly elected. R.S.O. 1970, c. 142, s. 41.

45. Nothing in this Act imposes any liability upon a person nominated as a candidate or declared to be a candidate by others without his consent unless he has afterwards given his assent to the nomination or declaration or has been elected. R.S.O. 1970, c. 142, s. 42.

Non-liability
of person
nominated
without
consent

OFFICIAL AGENT

46. The returning officer shall announce at the place and on the day of nomination, the names and addresses of the official agents of the candidates and, on or immediately after the day of nomination, shall publish such names and addresses in a newspaper published or circulated within the electoral district. R.S.O. 1970, c. 142, s. 43.

Official
agents
announced

47.—(1) Every candidate shall appoint an official agent whose name and address shall be declared in writing to the returning officer on or before the nomination day.

Appointment
of official
agent

(2) In the event of the death or incapacity of an official agent, the candidate shall forthwith appoint another official agent in his place and give notice to the returning officer of the name and address of the person appointed, which shall be published forthwith by the returning officer in the manner provided by section 46. R.S.O. 1970, c. 142, s. 44.

On death or
incapacity
of an agent.
appointment
of another

48. No person shall act as an official agent for a candidate at an election who,

Persons
disqualified
from acting
as agents

(a) is disqualified from voting under section 13; or

(b) within eight years before the election has been found guilty of a corrupt practice or an offence relating to an election. R.S.O. 1970, c. 142, s. 45.

SCRUTINEER

49. A candidate may undertake any of the duties that his scrutineer might have undertaken if appointed, or may assist his scrutineer in the performance of such duties, and may be present at any place at which his scrutineer may attend in pursuance of this Act. R.S.O. 1970, c. 142, s. 46.

Right of
candidates
to undertake
duties of
scrutineers

50. Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act. R.S.O. 1970, c. 142, s. 47.

Non-
attendance
of scrutineers

WITHDRAWAL OF CANDIDATE

Withdrawal
of candidate
after
nomination

51.—(1) A candidate may withdraw at any time after his nomination and before the opening of the poll by delivering to the returning officer the prescribed declaration to that effect, signed by himself in the presence of a subscribing witness, and any votes cast for a candidate who has so withdrawn are void, and, if after the withdrawal there remains but one candidate, the returning officer shall return as duly elected the candidate so remaining.

Idem

(2) In the case of a candidate withdrawing where there are more than two candidates, the returning officer if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted up in a conspicuous place in every polling place in the electoral district. R.S.O. 1970, c. 142, s. 48.

DEATH OF CANDIDATE

Death of
candidate

52. If a candidate dies after being nominated and before the close of the poll, the Chief Election Officer shall fix new days for the nomination of candidates and for polling, and the nomination day shall be the nearest day practicable. R.S.O. 1970, c. 142, s. 49.

PART IV

PREPARATION FOR THE POLL

BALLOT PAPER

Ballot paper
used

53.—(1) The paper used for printing the ballots shall be as approved by the Chief Election Officer.

Paper to
show secret
marking

(2) The paper used shall contain a secret thread or other mark so placed as to run through each ballot. R.S.O. 1970, c. 142, s. 50 (1, 2).

Security
to be
furnished
by manu-
facturer

(3) The manufacturer of the paper shall furnish security in such amount as is fixed by the Lieutenant Governor in Council that none of the paper manufactured for use in printing the ballots will be supplied by him to any person other than the Queen's Printer, and, upon the delivery of the paper, the number of sheets shall be counted by the Queen's Printer and a receipt therefor in writing signed by the Queen's Printer shall be given to the manufacturer. R.S.O. 1970, c. 142, s. 50 (3); 1973, c. 2, s. 4 (3).

Queen's
Printer
to furnish
paper to
C.E.O.

(4) The Queen's Printer shall supply the Chief Election Officer with the paper required for the printing of the ballots from time to time as is required, and the Queen's Printer

and the Chief Election Officer shall check the number of sheets of ballot paper so supplied and the Chief Election Officer shall give to the Queen's Printer a receipt in writing signed by the Chief Election Officer. R.S.O. 1970, c. 142, s. 50 (4); 1973, c. 2, s. 4 (3).

(5) The Chief Election Officer, before each general election and from time to time, shall cause a check to be made of all ballot paper supplied to him, and such paper shall be kept at all times under lock and key and no one shall have access to the place in which it is kept, except the Chief Election Officer or some person acting directly under his authority. R.S.O. 1970, c. 142, s. 50 (5). Custody of ballot paper

BALLOTS

54.—(1) The Chief Election Officer shall cause to be printed on the approved paper a sufficient number of ballots for the poll to be conducted in each electoral district. C.E.O. to see to printing of ballots

(2) The printer shall count the sheets of ballot paper delivered to him and shall give the prescribed receipt therefor to the Chief Election Officer. Printer to give receipt for ballot paper

(3) The names of the candidates shall be shown on the ballot in order of surnames alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name. Form of ballot

(4) A circle shall be shown on the ballot to the right of each candidate's name. Idem

(5) The names of candidates, numbers and circles shall be white and the remainder of the face of the ballot shall be black, but, where there are two or more candidates whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address of all candidates shall be shown on the face of the ballot immediately under their names in white and in sufficient detail as to identify each candidate. Idem

(6) No other identification such as occupation, title, honour, decoration or degree shall be included with any candidate's name on the ballot. Idem

(7) The ballots shall be numbered consecutively on the stubs and shall be bound or stitched in books. Numbering of ballots

(8) All ballots shall be of the same description and as nearly alike as possible. Uniformity

Printer's
name

(9) The ballots shall bear upon the back the name of the printer who printed them.

Affidavit
of printer

(10) The printer shall make the prescribed affidavit and deliver it to the Chief Election Officer with the ballots.

Supply to
be furnished
to R.O. and
receipt
obtained

(11) The Chief Election Officer shall deliver to each returning officer in one or more locked and sealed boxes, the ballots for his electoral district, and the returning officer upon receiving them shall make a count of the ballots and forward the prescribed receipt therefor to the Chief Election Officer.

Supply to
D.R.O.

(12) The returning officer shall supply each deputy returning officer with a sufficient number of ballots to supply the voters on the polling list of his polling place or polling subdivision, and with the necessary materials for voters to mark their ballots, and when delivering them the returning officer shall certify the number of ballots delivered and shall make a record of the numbers of the ballots delivered to each deputy returning officer, and this record shall be returned to the Chief Election Officer with the other documents required to be returned to him.

Receipt to
be given by
D.R.O.

(13) The deputy returning officer shall count the ballots as soon as he receives them from the returning officer and forward the prescribed receipt therefor to the returning officer. R.S.O. 1970, c. 142, s. 51.

BALLOT BOXES AND CONTENTS

Ballot boxes
to be
furnished

55.—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

How made

(2) Every ballot box shall be made of durable material and so constructed that ballots can be deposited therein but cannot be withdrawn without unlocking the box.

Property of
the Crown

(3) The ballot boxes, ballots, marking instruments, books, papers and documents procured for or used at an election are the property of the Crown.

Delivery of
ballot boxes
to D.R.O.

(4) Where it becomes necessary to use the ballot boxes, the returning officer shall deliver one ballot box to every deputy returning officer at least two days before the polling day.

(5) A deputy returning officer who has not been supplied with a ballot box within such time shall cause one to be made forthwith.

Duty of
D.R.O. as
to ballot
box

(6) After the close of the election, the returning officer shall make such disposition of the ballot boxes as is directed by the Chief Election Officer. R.S.O. 1970, c. 142, s. 52.

Disposition
of ballot
boxes

POLLING PLACES

56.—(1) Subject to subsection (4), and to section 57, the returning officer, on receiving the writ, shall provide at least one polling place for each polling subdivision in the most central or most convenient place for the voters, furnished with light and heat and such other accommodation and furniture as may be required, and, if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling subdivision.

Polling
places

(2) The returning officer may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions.

Union of
polling
subdivisions

(3) A polling place may be situated in a schoolhouse, hall or other public building or on private property.

Location of
polling
places

(4) The poll shall not be held in a premises licensed under the *Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Where
polling
places not
to be
R.S.O. 1980,
c. 244

(5) The returning officer may provide such additional polling places in any polling subdivision as are required having regard to the extent of the subdivision, the remoteness of any number of its voters from the polling place and the number of voters that may conveniently vote at one polling place.

Additional
polling
places

(6) Where there are two or more polling places in a subdivision, each polling place shall be designated by the initial letters of the surnames of the voters who are to vote in such polling place, in the following manner, thus, from A to M inclusive and from N to Z inclusive, or as may be determined by the returning officer.

Division to
be according
to initial
letters of
voters' names

(7) Every voter, the initial letter of whose surname is included within the letters of the alphabet designating a polling place, shall vote in the polling place so designated.

Where
voters to
vote

(8) Every voter has free access to the poll. R.S.O. 1970, c. 142, s. 53.

Access

HOSPITALS, HOMES FOR THE AGED,
AND OTHER INSTITUTIONS

Polling
places in
hospitals,
etc.

57.—(1) Where in an electoral district there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside, a polling place shall be provided in such institution or upon the premises, and, for the purpose of polling, the institution shall be deemed to be a polling place and every person resident in the institution who is entered on the polling list shall vote at such polling place.

Inca-
pacitated
patients

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 87. R.S.O. 1970, c. 142, s. 54.

VOTING COMPARTMENTS

Compartment-
ments for
voters to
mark ballots

58. Every polling place shall be furnished with compartments in which voters may mark their ballots without other persons being able to see how they are marked, and it is the duty of the returning officer and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. R.S.O. 1970, c. 142, s. 55.

POLL OFFICERS

Appointment
of D.R.O. and
poll clerk

59.—(1) The returning officer shall appoint in writing a deputy returning officer and a poll clerk for every polling place.

How to be
selected

(2) The returning officer, as far as possible, shall select and appoint the deputy returning officer and poll clerk so that they represent two different political interests, as provided in subsection (3).

Nomination
of D.R.O.
and poll
clerk

(3) Subject to subsection (4), the returning officer shall appoint a deputy returning officer from a list of names provided to him by the person who apparently will be the candidate at the election of the political interest represented by the Government of the day and shall appoint a poll clerk from a list of names provided to him by the person who

apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be.

(4) If seventy-two hours before the opening of the polls the returning officer has received an insufficient number of names to provide a deputy returning officer and a poll clerk representing two different political interests for each polling place, he shall make such additional appointments as are necessary.

Insufficient nomination

(5) Every deputy returning officer and poll clerk, before acting, shall take and subscribe the prescribed oath.

Oath of office

(6) No person shall be appointed a deputy returning officer or poll clerk who is not qualified to vote at the election.

Qualification

(7) The poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Duties of poll clerk

(8) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking the oath of a deputy returning officer.

Death or absence of D.R.O.

(9) The appointment and oath of the deputy returning officer shall be endorsed upon or attached to the poll book.

Idem

(10) The returning officer shall deliver to each deputy returning officer, at least forty-eight hours before the polling day, the polling list, a blank poll book and such other materials as are provided by the Chief Election Officer. R.S.O. 1970, c. 142, s. 56.

Supplies to D.R.O.

WHERE VOTERS TO VOTE

60. If the name of a person entitled to vote is entered on the polling list for more than one polling subdivision, he shall vote only at one polling place. R.S.O. 1970, c. 142, s. 57.

Voter to vote in one subdivision only

CERTIFICATES OF OUTSIDE VOTERS

61.—(1) The returning officer, on the personal or written request of a person entitled to vote who has been appointed a deputy returning officer or poll clerk or scrutineer of any of the candidates at a polling place other than the one at which he is

D.R.O., poll clerk and agents may vote at polling places where they are employed

entitled to vote, shall give him a prescribed certificate that he is entitled to vote at the polling place at which he is stationed during the polling day, so long as that polling place is within the electoral district in which his name appears on the polling list, and the certificate shall bear the date upon which it is signed by the returning officer.

When
certificate
for that
purpose may
be given

(2) The returning officer shall not give such a certificate until he has ascertained by reference to the polling list that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant appears by the polling list to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place. R.S.O. 1970, c. 142, s. 58 (1, 2).

Time of
request

(3) Except where a certificate is requested at least forty-eight hours before polling day, the returning officer may at his discretion refuse such a certificate. 1971, c. 100, s. 7.

Polling
place to be
designated

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

List of
persons
obtaining
or refused
certificates

(5) The returning officer shall keep a list in which he shall enter before he delivers a certificate under this section,

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;
- (c) the polling place at which the person appears by the polling list to be entitled to vote;
- (d) whether the certificate is granted to him as deputy returning officer, poll clerk or scrutineer, and, if as scrutineer, the name of the candidate for whom he is scrutineer; and
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal, and, if the person is applying as scrutineer of a candidate, the name of the candidate,

and the list shall be open to inspection by any candidate, official agent, scrutineer or voter. R.S.O. 1970, c. 142, s. 58 (4, 5).

62.—(1) A person who produces a certificate given to him under section 61 is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk or scrutineer during polling day. Production of certificate

(2) A person who receives a certificate, whether a deputy returning officer, poll clerk, or scrutineer shall not vote until he has taken one or other of the prescribed oaths of qualification. Oath of qualification

(3) The oath shall be administered to a deputy returning officer by the poll clerk or, in his absence by the scrutineer of a candidate authorized to be present, and to a poll clerk or scrutineer by the deputy returning officer. Before whom oath to be taken

(4) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate". Entry on list of persons voting under authority of a certificate

(5) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot. Certificate to be delivered by person voting

(6) The deputy returning officer shall enclose all such certificates in one envelope. R.S.O. 1970, c. 142, s. 59. Preservation

PART V

THE POLL

VOTING BY BALLOT

63. The votes shall be given by ballot. R.S.O. 1970, c. 142, s. 60. Voting to be by ballot

PRESERVATION OF THE PEACE

64. A returning officer or a deputy returning officer may require the assistance of justices of the peace, constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he deems necessary. R.S.O. 1970, c. 142, s. 61. Assistance by justices and constables

SECRECY OF PROCEEDINGS

65. In addition to the deputy returning officer, the poll clerk, the constable or constables, the candidates and their official agents and not more than one scrutineer for each candidate Who may be in polling places

at any one time shall be permitted to remain in the polling place during the time the poll remains open and at the counting of the votes. R.S.O. 1970, c. 142, s. 62.

Communi-
cating
information
as to how a
voter is
voting

66. No person shall communicate any information obtained at a polling place as to the candidate for whom a voter at the polling place is about to vote or has voted. R.S.O. 1970, c. 142, s. 63.

Interference
with voters

67. No person shall interfere or attempt to interfere with a voter when the voter is marking his ballot, or attempt to obtain at the polling place information as to the candidate for whom a voter is about to vote or has voted. R.S.O. 1970, c. 142, s. 64.

Exclusion
from
balloting
compartment

68. Subject to section 87, while a voter is in a compartment for the purpose of marking his ballot, no other person shall be allowed to enter the compartment or to be in a position from which he can see for whom the voter marks his ballot. R.S.O. 1970, c. 142, s. 65.

Inducing
voter to
display
ballot after
marking

69. No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot after he has marked it so as to make known to any person the name of the candidate for whom he has voted. R.S.O. 1970, c. 142, s. 66.

Voter not
to display
marked
ballot

70. Subject to section 87, a voter shall not show his ballot, when marked, to any person so as to allow the name of the candidate for whom he has voted to be known. R.S.O. 1970, c. 142, s. 67.

Oath of
secrecy

71. Every returning officer and every deputy returning officer, clerk, constable, official agent, scrutineer and other person authorized to attend at a polling place, or at the counting of the votes, shall before entering on his duties take the prescribed oath of secrecy. R.S.O. 1970, c. 142, s. 68.

No one
compellable
to disclose
his vote

72. A person who has voted shall not in any legal proceeding be compelled to state for whom he voted. R.S.O. 1970, c. 142, s. 69.

ADVANCE POLLS

Advance
polls

73.—(1) The Saturday and Monday immediately preceding polling day shall be days on which polls shall be held for the purpose of receiving votes of voters who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists.

(2) The advance polls shall be open from 11 a.m. to 8 p.m. on ^{Time of} each of the two days. ^{poll}

(3) The returning officer shall provide as many polling ^{Fixing the} places as are approved by the Chief Election Officer, ^{polling} fix their ^{places} location and appoint a deputy returning officer and poll clerk for each polling place.

(4) The returning officer, in fixing the location of the ^{Accessibility} polling places, shall select, so far as is reasonably possible, ^{to wheel} public places or premises that afford access to wheel ^{chairs} chairs.

(5) Notice of the times and places at which advance polls ^{Notice of} will be opened shall be given by the returning officer, before the ^{polls} days for holding the poll, by posting up notices in the prescribed form at each of the polling places so appointed and in conspicuous places in the electoral district and by advertisement in a newspaper having general circulation in the electoral district.

(6) Every person offering himself as a voter at the polling ^{Declaration} place shall be required by the deputy returning officer before ^{of voter} being allowed to vote to make the prescribed declaration which shall be kept by the deputy returning officer with the other records of the poll.

(7) Forthwith after the close of the poll each day, the ^{List of} deputy returning officer shall make up and deliver or mail to ^{persons} the returning officer a list of the names of all persons who have ^{voting} voted showing in each case the number of the polling subdivision in which the voter is entered on the polling list, and the returning officer shall furnish every candidate with a copy of such list.

(8) Upon receiving the list mentioned in subsection (7), the ^{Noting} returning officer shall make an entry in the polling list to be ^{other} supplied to each deputy returning officer on polling day opposite ^{deputy} the name of each voter whose name appears on such list and ^{returning} whose vote has been received at an advance poll, showing ^{officer's} that such voter has polled his vote. ^{lists}

(9) On the general polling day, the deputy returning officer ^{Close of} shall, in the presence of such candidates, official agents and ^{poll} scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes, count the votes and perform all other duties required of deputy returning officers by this Act.
R.S.O. 1970, c. 142, s. 70.

TIME OF GENERAL POLL

Hours of
polling
generally

74.—(1) Subject to subsection (2), the polls at every election to the Assembly shall open at 8 a.m. and remain open until 7 p.m. of the same day.

When
C.E.O. may
provide for
earlier
opening

(2) Where the Chief Election Officer considers it desirable for the convenience of the voters that the polls should be opened in any electoral district at an earlier hour than 8 a.m., the Chief Election Officer may direct the polls to be opened in such electoral district at such time earlier than 8 a.m., but not earlier than 6 a.m., as he considers expedient. R.S.O. 1970, c. 142, s. 71.

PROCEDURE AT POLL

Attendance
of D.R.O.

75.—(1) The deputy returning officer shall attend at the polling place at least fifteen minutes before the hour fixed for opening the poll.

Counting
ballots
before
opening
of poll

(2) During such fifteen minutes and before the opening of the poll, the scrutineers who are entitled to be present in the polling place during polling hours are entitled to have the ballots intended for use thereat counted in their presence and to inspect the ballots and all other papers, forms and documents relating to the poll. R.S.O. 1970, c. 142, s. 72.

Deputy to
show box
empty, and
lock and
seal it

76. The deputy returning officer, before opening the poll, shall show the ballot box to such persons as are present in the polling place so that they may see that it is empty and he shall then lock the box and place a seal as prescribed by the Chief Election Officer upon it in such manner as to prevent its being opened without breaking the seal, and he shall then place and keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. R.S.O. 1970, c. 142, s. 73.

One voter
only for
each com-
partment

77. Each voter upon entering the room where the poll is held shall declare his name and place of residence, which particulars shall be entered in the poll book by the poll clerk with a consecutive number being prefixed to the name, and not more than one voter shall enter a voting compartment at one time. R.S.O. 1970, c. 142, s. 74.

Persons on
polling list
to be
allowed to
vote on
taking oath
if required

78. Subject to sections 62 and 81, the deputy returning officer shall not receive the vote of any person whose name is not entered on the polling list, but shall receive the vote of every person whose name is entered thereon if such person where required by a candidate or scrutineer or by the deputy

returning officer, takes the oath of qualification and the oath of allegiance or whichever is required to be taken. R.S.O. 1970, c. 142, s. 75.

79. If a deputy returning officer has reason to believe that a person offering to vote is not a qualified voter or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon the polling list, the deputy returning officer shall administer the prescribed oath to the voter, whether or not he has been requested to do so. R.S.O. 1970, c. 142, s. 76.

When
D.R.O. to
swear voter

80. A person who has refused to take the oath when required so to do shall not receive a ballot or vote. R.S.O. 1970, c. 142, s. 77.

Voters
refusing to
be sworn

Vouching in Rural Polls

81.—(1) In polling subdivisions declared to be rural polling subdivisions by the Chief Election Officer, any qualified voter whose name has been omitted in error from the polling list may apply to the deputy returning officer for the polling subdivision in which he resides to have his name added to the list, and his name shall be added to the list,

Where
voter's
name
omitted in
rural polling
subdivisions

- (a) if he takes the prescribed oath as to his omission from the list and his eligibility to vote; and
- (b) if he is accompanied by a voter who is resident in the same polling subdivision and whose name is on the polling list and who takes the prescribed oath that,
 - (i) he knows the person whose name has been omitted, and
 - (ii) he believes such person to be duly qualified to be entered on the polling list to vote at the election. R.S.O. 1970, c. 142, s. 78 (1); 1971, c. 100, s. 8.

(2) The deputy returning officer, after administering the prescribed oaths, shall cause the applicant's name to be added to the polling list with the word "Sworn" written thereafter.

Name to be
entered on
list

(3) The applicant, upon taking the oath and being vouched for, is entitled to vote.

Right to
vote

(4) This section does not apply to an advance poll. R.S.O. 1970, c. 142, s. 78 (2-4).

Application
to advance
poll

Marking Ballot

82. Every person who is entitled to vote shall receive from the deputy returning officer a ballot on the back of which

D.R.O. to
put initials
on back
of ballot

the deputy returning officer has previously put his initials, so placed as indicated thereon that when the ballot is folded they can be seen without opening it. R.S.O. 1970, c. 142, s. 79.

Instructions
to voter

83. The deputy returning officer shall, upon the request of the voter, instruct him how to mark and fold his ballot, but without inquiring or seeing for whom he intends to vote, except in the cases provided for by section 87. R.S.O. 1970, c. 142, s. 80.

Mode of
marking,
folding and
depositing
ballot

84. The voter on receiving his ballot shall forthwith proceed into one of the compartments of the polling place and there mark his ballot with a cross or other mark with a pen or pencil within the white circle following the name of the candidate for whom he intends to vote, and shall then fold the ballot so that the initials on the back of it can be seen without opening it, and hand it to the deputy returning officer who shall, without unfolding it, ascertain by examining his initials that it is the same ballot that he gave to the voter, and shall then, in full view of all present, including the voter, place the ballot in the ballot box. R.S.O. 1970, c. 142, s. 81.

Entries to
be made in
poll book as
to voters

85. The poll clerk shall enter in the poll book opposite the name of each voter voting the word "Voted" as soon as the ballot has been deposited in the ballot box, and shall enter in the same book the word "Sworn" or "Affirmed" opposite the name of each voter to whom the oath has been administered, and the words "Refused to be Sworn" or "Refused to Affirm" opposite the name of each voter who has refused to take an oath when he has been required so to do. R.S.O. 1970, c. 142, s. 82.

Voters to
leave as
soon as
possible

86. A voter shall vote without undue delay and shall leave the polling place as soon as his ballot has been placed in the ballot box. R.S.O. 1970, c. 142, s. 83.

HANDICAPPED VOTERS

Voter inca-
pacitated by
blindness,
etc.

87.—(1) On the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the voter making the application to take an oath of his incapacity to vote without assistance, and shall thereafter assist the voter by marking his ballot in the manner directed by the voter in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

Blind voter's
ballot
marked by
friend

(2) The deputy returning officer shall either deal with a blind voter in the manner provided in subsection (1) or, at the request of any blind voter who has taken the prescribed oath and is accompanied by a friend, shall permit the friend

to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

(3) Any friend who is permitted to mark the ballot of a blind voter under subsection (2) shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot of the blind voter is marked by him. Oath of friend

(4) No person shall be allowed to act as the friend of more than one blind voter at any polling place other than a polling place established under section 57. May act as friend once only

(5) The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name the reason why the ballot was marked by him or by a friend of the voter. R.S.O. 1970, c. 142, s. 84. Entry in poll book

INTERPRETER

88. Where a voter does not understand the English language, an interpreter may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the voter and his answers, but in the event of inability to secure an interpreter, the voter shall, for the time being, be refused a ballot. R.S.O. 1970, c. 142, s. 85. Voters who cannot understand English

89. A person who has placed or caused to be placed his ballot in the ballot box, or has delivered it to the deputy returning officer or poll clerk for the purpose of having it placed in the ballot box shall be deemed to have voted. R.S.O. 1970, c. 142, s. 86. When person deemed to have voted

90. A person who has received a ballot shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without delivering it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling place or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" upon the ballot and preserve it to be returned to the returning officer. R.S.O. 1970, c. 142, s. 87. Voter not to take his ballot from polling place, etc.

91. A voter who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "Cancelled" upon the first-mentioned ballot and preserve it to be returned to the returning officer. R.S.O. 1970, c. 142, s. 88. Where ballot accidentally spoiled

PERSONATION

Voter who
alleges he
has been
personated

92.—(1) If a person representing himself to be a voter applies for a ballot after another person has voted as such voter, he is entitled to receive a ballot and to vote after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer.

Name of
voter, etc.,
to be entered
in poll book

(2) The name of the voter shall be entered in the poll book and a note shall be made of his having voted on a second ballot and of the fact of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates. R.S.O. 1970, c. 142, s. 89.

TIME FOR VOTING

Employees
to have
three
consecutive
hours for
voting

93.—(1) Where, by reason of the hours of his employment, an employee who is a qualified voter will not have three consecutive hours to vote while the polls are open on a polling day at an election, his employer shall, at the convenience of the employer, allow the employee such time for voting as is necessary to provide the three consecutive hours.

Deduction
from pay
prohibited

(2) No employer shall make any deduction from the pay of any such employee or exact from him any penalty by reason of absence from his work during the time allowed by the employer for voting. R.S.O. 1970, c. 142, s. 90.

ELECTION INTERRUPTED

When
election or
polling
is not
commenced
or is
interrupted

94. If by reason of riot or other emergency a nomination meeting or the voting at a polling place is not commenced on the proper day or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election or polling on the following day at 1 p.m. in the case of a nomination meeting, and at 8 a.m. in the case of a polling, and continue the same from day to day, if necessary, until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eleven hours in all. R.S.O. 1970, c. 142, s. 91.

EFFECT OF IRREGULARITIES

Irregularities
not affecting
result

95. No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;

- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. R.S.O. 1970, c. 142, s. 92.

PROCEEDINGS AFTER CLOSE OF POLL

96. Immediately after the close of the poll, the deputy returning officer shall place all the cancelled and declined ballots in separate envelopes and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted and make an entry thereof on the line immediately below the name of the voter who voted last, thus: "The number of voters who voted at this election in this polling place is (stating the number)", and he shall sign his name thereto; then, in the presence and in full view of the persons entitled to be present, he shall open the ballot box and proceed to count the number of votes for each candidate, giving full opportunity to those present to examine each ballot. R.S.O. 1970, c. 142, s. 93.

Duties of deputy returning officer after close of poll

REJECTED BALLOTS

97.—(1) The deputy returning officer shall reject all ballots, herein called "rejected ballots",

What ballots to be rejected in counting votes

- (a) that have not been supplied by him; or
- (b) by which votes have been given for more than one candidate; or
- (c) on which more than one mark appears; or
- (d) upon which there is any writing or mark by which the voter can be identified,

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection.

(2) The deputy returning officer shall make a note of every objection taken to a ballot by a candidate or his scrutineer, and shall decide the objection subject to review on recount or on petition questioning the election or return.

Objections to be noted

Numbered
and
initialled

(3) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer. R.S.O. 1970, c. 142, s. 94.

How ballots
to be
counted

98.—(1) All the ballots not rejected by the deputy returning officer shall be counted and all the ballots indicating the votes given for each candidate respectively shall be put into separate envelopes and an account shall be kept of the number of ballots cast for each candidate and of the number of rejected and cancelled ballots.

Rejected
and unused
ballots

(2) All rejected and unused ballots shall be put into separate envelopes, which shall be endorsed so as to indicate their contents and sealed by the deputy returning officer, and any agent present may write his signature across the flap of the envelope and may also affix his seal. R.S.O. 1970, c. 142, s. 95.

STATEMENT OF POLL

Statement
of result
to be made
by D.R.O.

99.—(1) The deputy returning officer shall make out a prescribed statement in triplicate, one part to remain attached to the poll book, the second part to be retained by him, and the third part to be enclosed by him in a special envelope supplied for the purpose, which he shall seal and deposit in the ballot box.

Signatures
to state-
ment

(2) The statement shall be signed forthwith by the deputy returning officer and poll clerk and such of the candidates or their scrutineers as may be present who desire to sign it.

Certificate of Count

Certificate
of result
of poll

(3) The deputy returning officer shall then deliver to each of the candidates or their scrutineers a certificate in the prescribed form of the number of ballots cast for each candidate and of the number of rejected ballots. R.S.O. 1970, c. 142, s. 96.

Oath of
poll clerk

100. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. R.S.O. 1970, c. 142, s. 97.

Poll book,
envelopes,
etc., to be
placed in
large
envelope in
ballot box

101. The poll book, polling list, envelopes containing the ballots and all other documents that served at the election shall then be placed in the large envelope supplied for the purpose, which shall then be sealed and placed in the ballot box. R.S.O. 1970, c. 142, s. 98.

Ballot box
to be
delivered
to R.O.

102.—(1) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it personally to the returning officer, and, if he is unable to do so owing to illness or other cause, he shall deliver it to the poll clerk or, where the poll

clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it to the returning officer, and shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered, and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver the ballot box to the returning officer and shall take before him the prescribed oath.

(2) The candidates, their official agents or scrutineers are entitled to be present when the ballot box is delivered pursuant to subsection (1). Right of candidates, etc., to be present

(3) In lieu of proceeding under subsection (1), after locking and sealing the ballot box, the deputy returning officer may forward it by registered mail to the returning officer. Ballot box may be forwarded by registered mail

(4) As soon as the deputy returning officer has complied with subsection (1) or (3), he shall take and subscribe the prescribed oath and shall personally deliver or send it by registered mail to the returning officer. R.S.O. 1970, c. 142, s. 99. Oath of D.R.O.

PART VI

AFTER THE POLL

RECEIPT OF BALLOT BOXES BY RETURNING OFFICER AND HIS OFFICIAL COUNT

103. When the returning officer receives a ballot box, he shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it, and, immediately on the receipt of a ballot box, he shall seal it with the seal as prescribed by the Chief Election Officer in such a way that it cannot be opened without the seal being broken and without effacing or covering the seals affixed to it. R.S.O. 1970, c. 142, s. 100. Duty of R.O. on receipt of boxes

104. The returning officer, at the place, day and hour appointed by his proclamation and after having received all the ballot boxes, shall open the ballot boxes, the large envelopes containing the poll books and the envelopes containing the statements of the poll, but shall not open any of the other sealed envelopes, and in the presence of the election clerk and of the candidates or their official agents and scrutineers, if present, shall add up the votes given for each candidate from the statements of the poll contained in the ballot boxes and shall forthwith declare to be elected the candidate having the largest number of votes. R.S.O. 1970, c. 142, s. 101. Count by R.O. and declaration of result

Casting
vote

105. If, on the addition of the votes by the returning officer, an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared elected, the returning officer shall give the additional or casting vote. R.S.O. 1970, c. 142, s. 102.

PROCEEDINGS IN CASE OF NON-RETURN
OF BALLOT BOXES

Adjourn-
ment of
proceedings
where ballot
boxes not
delivered

106. If all the ballot boxes are not returned on the day fixed for adding up the votes, the returning officer shall adjourn the proceedings to a subsequent day, which shall be not more than seven days later than the day originally fixed. R.S.O. 1970, c. 142, s. 103.

Where
default
made by
D.R.O. in
returning
documents

107. If a deputy returning officer has not enclosed in the ballot box the statement of the ballots counted by him as required by this Act, or if for any other cause the returning officer cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, he may adjourn to a future day and hour the adding up of the votes, and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. R.S.O. 1970, c. 142, s. 104.

Disappear-
ance of
ballot boxes
of R.O.

108. If any of the ballot boxes have been destroyed or lost or, for any other reason, are not forthcoming by the time fixed for adding up the votes, the returning officer shall ascertain the cause and shall procure from each deputy returning officer whose ballot box is missing, or from any other person having them, the statements and certificates of the number of votes given for each candidate, or copies of them, all to be verified by oath. R.S.O. 1970, c. 142, s. 105.

Procedure
of R.O.
where lists,
statements,
etc., cannot
be found

109. If the statements and certificates, or any of them, or copies of them, cannot be procured, the returning officer shall ascertain, by such evidence as he is able to obtain, the total number of votes given for each candidate at the several polling places, and may summon any deputy returning officer, poll clerk or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents, and the returning officer shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk or other person respecting the matter in question. R.S.O. 1970, c. 142, s. 106.

When
D.R.O. has
neglected
to deliver
statement
of result

110. In the case of an adjournment by reason of any deputy returning officer not having placed in the ballot box a statement of the ballots counted by him, the returning officer, in the meantime, shall use all reasonable efforts to ascertain

the number of votes given for each candidate at the polling place of such deputy returning officer and has the powers conferred by section 109. R.S.O. 1970, c. 142, s. 107.

111. The returning officer shall return the candidate having the largest number of votes, and shall specify in a report to be sent with the return the circumstances accompanying the disappearance of the ballot boxes, or the want of any statement, and the mode by which he ascertained the number of votes given for each candidate. R.S.O. 1970, c. 142, s. 108. Special report by R.O.

RECOUNT OR FINAL ADDITION BY COUNTY JUDGE

112.—(1) In this section and in sections 113 to 124, “judge” means the judge of the county or district court, and, where there are two or more judges, the senior judge or, in the case of the illness or absence of the senior judge or where the senior judge requests him to act, another judge of the court. Interpretation

(2) If, upon the application of a candidate or a voter made within four days after the day on which the returning officer added the votes for the purpose of declaring a candidate elected, it is made to appear by affidavit to the judge of the court of the county or district in which the electoral district or any part of it is situate, Where recount may be had

- (a) that a deputy returning officer has in counting the votes, improperly counted any ballot, improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) that the returning officer has improperly added up the votes,

and, if the applicant deposits within that time with the clerk of the county or district court the sum of \$100, money order or a cheque drawn upon and accepted by a chartered bank or trust company doing business in Ontario as security for the costs in connection with the recount or final addition of the candidate appearing by the addition to be elected, the judge may appoint a time and place to recount or finally add up the votes cast at the election.

(3) Where the electoral district comprises parts of two or more counties or districts, the application shall be made to and the recount or final addition shall take place before the judge of the court of the county or district having the larger or largest population according to the last federal census. What judge to hold recount when district in two or more counties

Notice of
application

(4) Before an application is made to the judge under subsection (2), the applicant shall give notice in writing of the application to the candidates or the other candidates, as the case may be, or their official agents, to the returning officer and to the election clerk.

Idem

(5) A notice under subsection (4) shall be given by serving it personally on the person to whom it is to be given or by sending it by registered mail addressed to his place of residence. R.S.O. 1970, c. 142, s. 109.

Notice of
time and
place of
recount

113. At least two days notice in writing of the time and place appointed for the recount or final addition shall be given by the applicant to the candidates, the returning officer and the election clerk, and the judge may, at the time of the application or afterwards, direct that service of the notice upon the candidates, the returning officer and the election clerk may be substitutional or be made by mail or in such other manner as he considers proper. R.S.O. 1970, c. 142, s. 110.

R.O. to
withhold
return

114. After the receipt of the notice, the returning officer shall delay making his return to the Chief Election Officer until he receives a certificate from the judge of the result of the recount or final addition, and, upon receipt of the certificate, he shall make his return. R.S.O. 1970, c. 142, s. 111.

Presence
of clerk
of county
or district

115. The judge may require the clerk of the county or district court to be present at the time and place appointed. R.S.O. 1970, c. 142, s. 112.

Summoning
officers to
be presented
with
documents

116.—(1) The returning officer and his election clerk shall attend at the time and place appointed with the envelopes containing the ballots or the original statements of the poll, as the case may be.

Production
and custody
of ballot
papers on
a recount

(2) The ballots and original statements shall continue in the custody of the returning officer, and he is responsible for them subject to any direction that the judge may give with respect thereto. R.S.O. 1970, c. 142, s. 113.

Who to be
present at
recount

117. The returning officer and the election clerk shall be present at the recount or final addition, and each candidate is entitled to be present and to be represented by not more than two scrutineers, and, except with the permission of the judge, no other person shall be present. R.S.O. 1970, c. 142, s. 114.

Procedure
by judge

118. At the time and place appointed and in the presence of such of the persons mentioned in section 117 as are present, the judge shall make his final addition from the statements

contained in the ballot boxes returned by the deputy returning officer, or recount all the votes or ballots returned by the deputy returning officers, as the case may be, and shall, in the latter case, open all the sealed envelopes containing,

- (a) the used ballots that have been counted;
- (b) the rejected ballots;
- (c) the cancelled ballots;
- (d) the declined ballots; and
- (e) the unused ballots. R.S.O. 1970, c. 142, s. 115.

119. The judge shall, in the case of a recount, proceed according to the rules of the counting of the ballots at the close of the poll by the deputy returning officer and shall verify or correct the statement of the poll. R.S.O. 1970, c. 142, s. 116.

Rules to govern judge in proceedings

120.—(1) Upon the completion of the recount, the judge shall seal up all the ballots in their separate envelopes and, upon the completion of his final addition, he shall seal up the original statements in their respective envelopes.

Sealing up ballots at close of recount

(2) If either party requests him to do so, the judge shall number on the back the disputed ballots and enclose them in a separate envelope. R.S.O. 1970, c. 142, s. 117.

Distinguishing disputed ballots

121.—(1) Where a ballot used at a polling place was not available to the returning officer when he made his decision with respect to the number of votes given for a candidate or where the proper statements or papers were not found in the ballot box, the judge shall, if necessary or required, review the decision of the returning officer.

Review of decision of R.O. when ballot box or documents missing

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer. R.S.O. 1970, c. 142, s. 118.

Powers of judge

122.—(1) The judge shall delay sending his certificate to the returning officer for two days after the completion of the recount or final addition in order to allow for an appeal as provided in section 125.

When judge to send in his certificate

(2) If no notice of appeal is given to the judge within two days after the completion of the recount or his final addition, the judge shall certify forthwith the result to the returning officer

When declaration of result to be given

who shall then declare the candidate having the largest number of votes to be elected.

Casting
vote

(3) In the case of an equality of votes, the returning officer shall give the casting vote. R.S.O. 1970, c. 142, s. 119.

Costs

123.—(1) The costs of the recount or final addition are in the discretion of the judge who may order by whom, to whom, including the returning officer and election clerk, and in what manner they shall be paid.

Taxing and
allowing
costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs with respect to proceedings in the Supreme Court.

Idem

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. R.S.O. 1970, c. 142, s. 120.

Deposits,
disposal of

124. Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the county court upon the judge's order for the balance. R.S.O. 1970, c. 142, s. 121.

APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

Appeal from
decision of
judge

125.—(1) Any party may appeal from the decision of the judge who conducted the recount or final addition by giving notice in writing within two days after the completion of the recount or final addition to the opposite party and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of
notice of
appeal

(2) The notice may be served upon the opposite party personally, or upon the solicitor who acted for him upon the recount or final addition by the judge, personally or at his office, or as a judge of the Divisional Court may direct.

Ballots,
etc., to be
forwarded
to Registrar
of Supreme
Court

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall seal up the ballots that are the subject of appeal in a separate packet and shall forward them, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other

papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

(4) The judge who conducted the recount or final addition shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

Allowing
copy of
certificate
of judge

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from the Divisional Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Appoint-
ment for
hearing
of appeal

(6) At the time appointed, the Divisional Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify the decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

Procedure
on hearing
of appeal
certificate
of result

(7) The Divisional Court may direct by and to whom, including the returning officer and election clerk, the costs of the appeal shall be paid.

Costs of
appeal

(8) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. R.S.O. 1970, c. 142, s. 122.

Idem

ELECTION RETURN

126.—(1) Immediately after the sixth day following the final addition by him of the number of votes given for each candidate, unless before that time he receives notice that he is required to attend before a judge for the purpose of a recount or final addition of the votes given at the election, and, where there has been a recount or final addition, immediately after the receipt of the certificate of the result, the returning officer shall send his return to the Chief Election Officer that the candidate having the largest number of votes has been duly elected, and shall forward to each of the candidates a duplicate copy thereof.

When
return to
be made

(2) The returning officer shall include with his return to the Chief Election Officer a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballots as received by him. R.S.O. 1970, c. 142, s. 123.

Report by
R.O.

R.O. to
transmit
to C.E.O.
the ballots,
etc.

127.—(1) When the returning officer sends his return he shall send by express or registered mail to the Chief Election Officer, enclosed in a box or other covering, securely locked and sealed with the seal as prescribed by the Chief Election Officer, the writ, the list mentioned in subsection 61 (5), all the envelopes containing ballots in his possession, declarations of inability to read or to mark, poll books and all other documents sent to him by the deputy returning officers.

Endorse-
ment
thereon

(2) The returning officer shall endorse on the package a description of its contents, the date of the election to which they relate and the name of the electoral district for which the election was held and shall affix to the outside of the package a label showing distinctly the electoral district to which the contents relate and the date of the election. R.S.O. 1970, c. 142, s. 124.

Oath of
R.O. after
transmitting
return

128.—(1) The returning officer shall forthwith take and subscribe the prescribed affidavit after sending his return, and it shall be sent forthwith by him to the Chief Election Officer by registered mail.

Return of
election
documents
and unused
material

(2) The returning officer shall at the same time or within ten days thereafter transmit to the Chief Election Officer in a box or other covering, secured and sealed with the seal as prescribed by the Chief Election Officer all documents, papers and supplies in his possession, all receipts for ballots, a record of all ballots supplied to him by the Chief Election Officer and a complete record of their disposal, and shall, in a separate package, return all ballots not distributed by him to the deputy returning officers and all other unused material.

Endorsement
thereon

(3) The returning officer shall paste upon the box or other covering mentioned in subsection (2) a label "Election Documents" and on the package mentioned in subsection (2) a label "Unused Election Material", the name of the electoral district and the date of the election written or printed thereon. R.S.O. 1970, c. 142, s. 125.

Application
to compel
returning
officer to
add up
votes, make
return, etc.

129.—(1) If a returning officer wilfully delays, neglects or refuses,

(a) to add up the votes;

(b) to declare to be elected the candidate having the largest number of votes;

(c) to give his casting vote where he is by law required to do so; or

- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

and the person aggrieved or the Chief Election Officer or any voter who voted at the election applies by way of an application for judicial review to the Divisional Court for an order in the nature of mandamus commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election. R.S.O. 1970, c. 142, s. 126 (1), *revised*.

(2) In other respects, the *Judicature Act* and the rules of court made thereunder apply to such application. Application of
R.S.O. 1980,
c. 223

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer. R.S.O. 1970, c. 142, s. 126 (2, 3). Other rights
and remedies

130. The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected. R.S.O. 1970, c. 142, s. 127. Notice of
return in
*Ontario
Gazette*

CUSTODY OF ELECTION PAPERS

131.—(1) The Chief Election Officer shall retain in his possession the documents transmitted to him by the returning officer under sections 127 and 128 for at least one year, and, if the election is contested, then for one year after the termination of the contestation. How long
to be
retained
and when
to be
destroyed

(2) The Chief Election Officer shall keep the documents relating to a general election in a room or vault separate from that in which the documents relating to by-elections are kept. R.S.O. 1970, c. 142, s. 128 (1, 2). How to be
kept by
C.E.O.

(3) If notice is served on the Chief Election Officer under subsection 148 (6) or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED". R.S.O. 1970, c. 142, s. 128 (3), *revised*. When
documents
not to be
destroyed

INSPECTION OF DOCUMENTS AND BALLOTS

132. All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he Inspection of
documents

shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word. R.S.O. 1970, c. 142, s. 129.

Inspection
to be under
order of
judge

133.—(1) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

When order
to be
granted

(2) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of a petition questioning an election or return.

Conditions
of order

(3) The order may be made subject to such conditions as the judge thinks proper.

Where
inspection
takes place

(4) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key. R.S.O. 1970, c. 142, s. 130.

Evidence
as to
documents,
ballots, etc.,
in certain
cases

134. Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1970, c. 142, s. 131.

Inspection of
documents
under order
of committee
of the
Assembly

135. Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by a committee of the Assembly for the purpose of inquiring into any matter referred to the committee by order of the Assembly, and, upon any such proceeding before the committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the committee upon such inquiry may be examined or cross-examined in relation thereto. R.S.O. 1970, c. 142, s. 132, *revised*.

PART VII

OFFENCES, PENALTIES AND ENFORCEMENT

136. Every person who, at an election,

Voting
when not
qualified,
etc.

- (a) not being qualified to vote, votes ; or
- (b) being qualified to vote, votes more than once ; or
- (c) votes in an electoral district or polling subdivision other than the one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 100, s. 9, *part*.

137. Every person who,

Improper
voting by
proxy

- (a) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force ; or
- (b) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the voter who made the appointment is dead or is no longer entitled to vote,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 100, s. 9, *part*.

138. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 100, s. 9, *part*.

Wilful
miscount of
ballots

139. Every returning officer, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1971, c. 100, s. 9, *part*.

Neglect of
duties

Offences
relating
to ballot
papers

140. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (g) being authorized by the Chief Election Officer to print the ballots for an election, prints more ballots than he is authorized to print; or
- (h) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 100, s. 9, *part*.

False
information
to authorized
persons

141. Every person who knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 100, s. 9, *part*.

Default in
delivering
statement

142. Every official agent or candidate who makes default in delivering the statements required by Part IX to the returning officer is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1971, c. 100, s. 9, *part*.

False
statement

143. Every official agent or candidate who wilfully furnishes an untrue statement to the returning officer is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 100, s. 9, *part*.

144. Every person who,

(a) induces or procures any person to vote knowing that that person has no right to vote; or

(b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

Offences,
aiding
corrupt
practice;
inducing
unqualified
person to
vote; false
statement
of withdrawal
of candidate

is guilty of a corrupt practice and is liable to a fine of not more than \$1,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 100, s. 9, *part*.

145. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1971, c. 100, s. 9, *part*.

General
offence

146.—(1) Where a candidate at an election, or his official agent, is convicted of committing a corrupt practice, the candidate is ineligible to stand as a candidate at any election up to and including the next general election, or to hold any office at the nomination of the Crown or the Lieutenant Governor in Council for five years following the date of the official return and, if the corrupt practice is committed by the official agent, he is also liable to such penalties and disabilities.

Disqualifica-
tion of
persons
guilty of
corrupt
practice

(2) If, when the candidate or his official agent is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate or official agent is not subject to the penalties and disabilities provided by subsection (1). 1971, c. 100, s. 9, *part*.

Limitation

147. The Chief Election Officer, in addition to any other requirements of this Act with respect to the tabling of the results of an election, shall report to the Assembly whether or not in his opinion the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act. 1971, c. 100, s. 9, *part*.

Report re
conduct of
election

PART VIII

CORRUPT PRACTICES AND CONTROVERTED ELECTIONS

148.—(1) The validity of the election in any electoral district or of the election of any person to the Assembly or of the right of any person to sit in the Assembly or

Validity of
election,
etc., deter-
mined by
action

whether or not any person is guilty of a corrupt practice shall be tried and determined by an action commenced by issuing a writ in the Supreme Court.

Penalties
for corrupt
practice

(2) Where the Supreme Court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under Part VII.

Who may
commence
action

(3) A candidate at an election or any voter qualified to vote at an election or the Chief Election Officer, if he considers that it is in the public interest that an action be commenced, may commence an action.

Time for
commencing
action

(4) No action shall be commenced after the expiration of ninety days following the date of the official election returns, but this subsection does not apply to the Chief Election Officer who may commence an action under this Part at any time.

Local
registrar
to notify
Registrar

(5) Upon receipt of a writ of summons, the local registrar of the Supreme Court shall send notice thereof by registered mail to the Registrar of the Supreme Court.

Registrar to
notify Chief
Election
Officer

(6) The Registrar shall send a notice by registered mail to the Chief Election Officer of every writ of summons issued under this Part by anyone other than the Chief Election Officer.

Chief
Election
Officer to
notify
Assembly
and returning
officer

(7) The Chief Election Officer shall notify the Assembly, through the Clerk of the Assembly, of any action commenced under the authority of this section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

Publication
of notice by
returning
officer

(8) The returning officer, after receipt of a notification under subsection (6), shall forthwith publish a notice thereof in the prescribed form once in a newspaper published in the electoral district or, if there is no newspaper published in the electoral district, then in a newspaper having general circulation in the electoral district. 1971, c. 100, s. 9, *part*.

Practice and
procedure

149.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to an action commenced under this Part.

Judge
without
jury

(2) The action shall be tried by a judge without a jury. 1971, c. 100, s. 9, *part*.

150.—(1) The Chief Election Officer, following receipt of the notice under subsection 148 (6), may apply to a judge of the Supreme Court, or to the judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the court or for any other valid reason.

Intervention
in action
by Chief
Election
Officer

(2) Where the Chief Election Officer applies prior to the trial for leave to intervene, he shall file notice of the application in the office in which the action was commenced and shall serve copies thereof on all parties.

Notice of
application
to be filed
and served

(3) If the judge grants leave to intervene, he shall give directions as to appearance and procedure in respect of the Chief Election Officer including leave to subpoena witnesses to attend at the trial, and thereafter, the Chief Election Officer shall be served with all proceedings in the action. 1971, c. 100, s. 9, *part*.

Where leave
granted

151.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff, other than the Chief Election Officer, to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the returning officer incurred in the publication of notices in the electoral district in respect of the writ of the action or proceedings therein.

Security
for costs

(2) The security shall be in the amount of \$1,000 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario. 1971, c. 100, s. 9, *part*.

Idem

152. A disclaimer by an elected member under the *Legislative Assembly Act* does not affect the right of any person entitled to commence an action under this Part and an action may be commenced in the same manner as if the member elected had not disclaimed. 1971, c. 100, s. 9, *part*.

Disclaimer
not to affect
action
R.S.O. 1980,
c. 235

153.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

Abatement
of action

(2) The abatement of an action does not affect any liability for costs previously incurred.

Liability
for costs

(3) On the abatement of an action, notice of the abatement shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district and any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be substituted as the sole plaintiff. 1971, c. 100, s. 9, *part*.

Substitution
of plaintiff

Substitution
for
unqualified
plaintiff

154. Where a plaintiff is not qualified to be a plaintiff in an action under this Part, the action shall not on that account be dismissed if within such time as a judge of the Supreme Court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper. 1971, c. 100, s. 9, *part.*

Death of
defendant,
etc., at or
before trial

155.—(1) If, before or during the trial,

- (a) the defendant dies; or
- (b) the Assembly resolves that the seat is vacant; or
- (c) the defendant gives notice to the court that he does not intend to oppose, or further oppose the action,

notice of such event shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district.

Substituted
or further
defendant

(2) Within twenty days after notice is given in the electoral district under subsection (1), any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be admitted as a defendant to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there is a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

Adjournment
of trial

(3) If any of the events mentioned in subsection (1) happen during the trial, the court shall adjourn the trial in order that notice may be given in the electoral district.

Where notice
of intention
not to oppose
given

(4) The defendant who has given the notice under clause (1) (c) shall not be allowed to appear or act as a party against the action in any proceeding thereon and shall not sit or vote in the Assembly until the Assembly has been informed of the judgment in the action, and the court shall report the giving of the notice to the Assembly through the Clerk of the Assembly. 1971, c. 100, s. 9, *part.*

Successful
candidate
guilty of
corrupt
practice

156.—(1) Where it is determined that the successful candidate, or his official agent, is guilty of a corrupt practice, the court may declare his election void.

Unseating
and seating
of another
elected
candidate

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person was elected, that he be

admitted to take his seat in the Assembly or, if it is determined that no other person is elected, the court may provide for the holding of a new election.

(3) Where it is determined that any person is guilty of a corrupt practice and that the commission of the corrupt practice affected the result of the election, the court may declare the election void and provide for holding a new election.

Where commission of corrupt practice affected result of election

(4) Where it is determined that a person elected has become disqualified or has forfeited his seat, the court may order that he be removed from office and provide for the holding of a new election.

Unseating of disqualified person

(5) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and provide for holding a new election.

Where act of election official affected result of election

(6) Where a new election is ordered, the court may make such order as it considers just, against any person who is found guilty of an offence or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$10,000 per candidate.

Compensation of candidates where election void

(7) The Registrar of the Supreme Court shall forward the judgment and the reasons for judgment to the Assembly through the Clerk of the Assembly. 1971, c. 100, s. 9, *part*.

Judgment to Legislative Assembly

157.—(1) If the court determines that a member was not duly returned, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the court is received by the Assembly, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the court is received by the Assembly.

Where election set aside and appeal entered

(2) In the cases to which subsection (1) applies, where an appeal is entered, the Registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the court. 1971, c. 100, s. 9, *part*.

Notice of appeal to Clerk

158. A writ for a new election shall not be issued until after the expiration of the time limited for appeal from the determination of the Supreme Court that the election is void and, if an appeal is brought, the writ shall not issue pending the appeal. 1971, c. 100, s. 9, *part*.

Time for issue of writ for new election

Appeal to
Court
of Appeal

159.—(1) An appeal lies from the judgment of the Supreme Court to the Court of Appeal.

Setting
down for
hearing, etc.

(2) The Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the trial judge, and to the Chief Election Officer, notice in writing that the case has been so set down, and the appeal shall be heard by the Court of Appeal as speedily as practicable.

Judgment or
new trial

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Appeal from
decision on
new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section. 1971, c. 100, s. 9, *part*.

Inquiry as to
extensive
corrupt
practices

160. The Lieutenant Governor in Council, upon the recommendation of the Assembly, may issue a commission to inquire into whether corrupt practices extensively prevailed at the election and the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act. 1971, c. 100, s. 9, *part*; 1971, c. 49, s. 18.

R.S.O. 1980,
c. 411

PART IX

ELECTION EXPENSES AND FEES

Payments
not to be
made
except
through
official
agent

161.—(1) No payment, except with respect to the personal expenses of a candidate, and no advance, loan or deposit shall be made by or on behalf of a candidate before, during or after the election, on account of the election, otherwise than through his official agent. R.S.O. 1970, c. 142, s. 158 (1); 1975, c. 12, s. 55 (1).

Interpre-
tation

(2) In this section, "personal expenses", which may be lawfully paid by a candidate personally, includes the following expenses:

1. Reasonable and ordinary rent for hire of halls or other places used by the candidate personally in which to address public meetings of voters; and the

expenses incurred in heating, lighting and cleaning such halls or other places.

2. Reasonable and ordinary travelling and living expenses of the candidate.
3. Reasonable and ordinary travelling and living expenses of one speaker for each meeting who accompanies the candidate and travels with him for the purpose of speaking at a public meeting to be addressed by the candidate.
4. Reasonable and ordinary charges for the hire of conveyances for the use of the candidate.
5. Reasonable and ordinary charges for use by the candidate personally of not more than one conveyance on the polling day.

(3) The onus of showing that the personal expenses paid by the candidate were fair, reasonable and proper and not in excess of what is ordinarily paid for similar services and accommodation is upon the candidate. Burden of proof

(4) The contracting for or the receipt of the ordinary and reasonable charges, Receipt of ordinary and reasonable charges when not to disqualify voter

- (a) by the owner or possessor of a hall or room in which to hold public meetings for the purposes of the election;
- (b) by a printer for printing lists of voters, election addresses or advertisements or notices of election meetings; or
- (c) by a regularly established livery-keeper for the hire of vehicles used in connection with and for the proper purposes of the election and not for carrying voters otherwise than by the candidate as provided by paragraph 5 of subsection (2),

is lawful and does not disqualify him from voting. R.S.O. 1970, c. 142, s. 142 (2-4); 1971, c. 100, s. 10, *part*.

162.—(1) Every person who has any claim against a candidate for or in respect of an election shall send it, within sixty days from the day of the declaration of the result of the election, to the official agent of the candidate, otherwise he is barred of his right to recover it. Claims on candidates

Case of
death of
person
making
claim

(2) In case of the death within such period of the person having the claim, his legal representative shall send it, within one month after probate or administration has been obtained, to the official agent of the candidate, otherwise the right to recover it is barred.

Case of
death of
agent

(3) In the case of the death of the official agent or of his incapacity to act and no other agent having been appointed, the claim may be sent to the candidate.

Candidate
must
authorize
payment

(4) No such claim shall be paid without the authority of the candidate. R.S.O. 1970, c. 142, s. 143; 1971, c. 100, s. 10, *part*.

Payment of
accounts

163.—(1) Notwithstanding section 162, any claim that would have been payable if sent within sixty days of the day of the declaration of the result of the election may be paid by the candidate through his official agent after that time if the claim is approved by a judge of the Supreme Court.

Advertising
claims

(2) All claims allowed by a judge shall within one week thereafter be advertised by the returning officer at the expense of the candidate in the same newspapers in which the statement of the other election expenses was published. R.S.O. 1970, c. 142, s. 144; 1971, c. 100, s. 10, *part*.

Payment of
expenses
of Act

164.—(1) The fees and expenses to be allowed to the returning officers and other officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Accountable
warrants

(2) For the purpose of providing funds for the payment of such fees and expenses, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts
and audit

(3) The sums paid out under subsection (1) shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant Governor in Council otherwise directs.

Audit by
Provincial
Auditor

(4) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor. R.S.O. 1970, c. 142, s. 146; 1971, c. 100, s. 10, *part*.

165. The Lieutenant Governor in Council may make Regulations regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 123 and 125. R.S.O. 1970, c. 142, s. 147; 1971, c. 100, s. 10, *part.*

CHAPTER 134

Election Finances Reform Act

1.—(1) In this Act,

Interpre-
tation

- (a) “broadcasting undertaking” means a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada); R.S.C. 1970,
c. B-11
- (b) “by-election” means an election other than a general election;
- (c) “campaign period” means the period commencing with the issue of a writ for an election and terminating four months after polling day;
- (d) “candidate” means,
- (i) a person who is duly nominated as a candidate for an electoral district in accordance with the *Election Act*, R.S.O. 1980,
c. 133
 - (ii) a person who is nominated by a constituency association of a registered party in an electoral district as the official candidate of such party in the electoral district, or
 - (iii) a person who, on or after the date of the issue of a writ for an election in an electoral district, declares himself to be an independent candidate at the election in the electoral district;
- (e) “Commission” means the Commission on Election Contributions and Expenses;
- (f) “constituency association” in an electoral district means the association or organization endorsed by a

registered party as the official association of that party in the electoral district;

- (g) "contribution" does not include any goods produced by voluntary unpaid labour or any service performed by an individual voluntarily for a political party, constituency association or candidate without compensation from the political party, constituency association or candidate;
- (h) "election" means an election to elect a member or members to serve in the Assembly;
- (i) "general election" means an election in respect of which election writs are issued for all electoral districts;
- (j) "outdoor advertising facilities" means facilities, other than radio and television and newspapers, magazines and other periodical publications, of any person or corporation that is in the business of providing such facilities on a commercial basis for advertising purposes;
- (k) "person" includes a candidate but does not include a corporation or trade union;
- (l) "polling day" means the day fixed under the *Election Act* for holding the poll at an election;
- (m) "registered candidate" means a candidate registered under this Act;
- (n) "registered constituency association" means a constituency association registered under this Act;
- (o) "registered party" means a political party registered under this Act;
- (p) "revised list of voters" means the revised list of voters certified by the returning officer or an assistant revising officer under the *Election Act*;
- (q) "trade union" means a trade union as defined by the *Labour Relations Act* or the *Canada Labour Code* that holds bargaining rights for employees in Ontario to whom those Acts apply;
- (r) "year" means calendar year.

R.S.O. 1980,
c. 133

R.S.O. 1980,
c. 228
R.S.C. 1970,
c. L-1

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

Associated
corporations
R.S.C. 1952,
c. 148

(3) This Act does not apply to campaigns and conventions carried on or held in relation to the leadership of any registered party or in relation to contested constituency nominations for endorsement of official party candidates.

Leadership
campaigns
and
contested
constituency
nominations

(4) This Act does not apply to,

Existing
funds in
trust

(a) funds held in trust at 3.00 o'clock in the afternoon of the 13th day of February, 1975; and

(b) funds raised before the expiration of thirty days after the 13th day of February, 1975 by a fund-raising function organized before that day that are placed in trust,

for the purposes of a constituency association or the future candidacy of any person at an election or a future election campaign of any person, but the trustee or trustees of each such trust shall,

(c) within sixty days after the 2nd day of May, 1975, report in writing to the Commission the existence of such trust and the total amount of the funds therein;

(d) maintain the funds remaining in the trust from time to time on deposit with a financial institution that is lawfully entitled to accept deposits or in investments authorized for trust moneys by the *Trustee Act*;

R.S.O. 1980,
c. 512

(e) not permit funds or other property to be added to the trust other than interest on the amounts on deposit or the income from the investments referred to in clause (d);

(f) file with the Commission on or before the 30th day of April in the year 1976 and in each year thereafter a report of the expenditures from the trust during the previous year and his declaration that he has complied with the provisions of clauses (d) and (e); and

(g) when the trust is terminated, forthwith notify the Commission thereof.

Year
1975

(5) For the purposes of this Act, the period from 3:00 o'clock in the afternoon on the 13th day of February, 1975, to and including the 31st day of December, 1975 shall be deemed to have been the calendar year 1975. 1975, c. 12, s. 1.

COMMISSION ON ELECTION
CONTRIBUTIONS AND EXPENSES

Commission
continued

2.—(1) The commission known as the Commission on Election Contributions and Expenses is continued and shall be composed of,

- (a) two persons as nominees of each political party that is represented in the Assembly by four or more members of the Assembly and that nominated candidates in at least 50 per cent of the electoral districts in the most recent general election appointed, on the recommendation of the leader of the party, by the Lieutenant Governor in Council for a term of not more than five years;
- (b) a bencher of the Law Society of Upper Canada appointed by the Lieutenant Governor in Council for a term of not more than five years to hold office only while he remains a bencher;
- (c) the Chief Election Officer; and
- (d) the chairman of the Commission who shall be appointed by the Lieutenant Governor in Council for a term of not more than ten years.

Vice-
chairman

(2) The members of the Commission shall elect one of the members appointed under clause (1) (a) as vice-chairman to serve as such for not more than two years.

Absence of
chairman

(3) In the absence of the chairman, the vice-chairman may act as chairman.

Meetings

(4) The Commission shall meet on the call of the chairman or of five or more members.

Quorum

(5) Five or more members of the Commission and the chairman or vice-chairman constitute a quorum.

Members not
to hold
office with
or contribute
to party

(6) Members of the Commission shall not, during their term of office, be members of the Assembly or candidates at an election or hold office in any political party or constituency association or make contributions to any political party or constituency association.

(7) Any member of the Commission may be reappointed ^{Reappointment} for one additional term.

(8) The chairman of the Commission shall be paid such ^{Remuneration of members} salary and the other members except the Chief Election Officer shall be paid such *per diem* allowances as may be determined by the Lieutenant Governor in Council. 1975, c. 12, s. 2.

3.—(1) The Commission may employ an Executive Director, legal counsel, auditors and such staff as it considers necessary to properly carry out its responsibilities under this Act. ^{Staff}

(2) The Commission may lease such premises and acquire such equipment and supplies as are necessary to properly carry out its responsibilities under this Act. 1975, c. 12, s. 3. ^{Office accommodation and supplies}

4.—(1) The Commission, in addition to its other powers and duties under this Act, shall, ^{Powers and duties}

- (a) assist political parties, constituency associations and candidates registered under this Act in the preparation of returns required under this Act;
- (b) ensure that every registered constituency association and registered candidate has appropriate auditing services in order to properly comply with this Act;
- (c) examine all financial returns filed with the Commission;
- (d) conduct periodic investigations and examinations of the financial affairs and records of registered political parties and constituency associations and of registered candidates in relation to election campaigns;
- (e) reimburse candidates for election expenses in accordance with section 45;
- (f) recommend any amendments to this Act that the Commission considers advisable;
- (g) report to the Attorney General any apparent contravention of this Act;
- (h) prescribe forms and the contents thereof for use under this Act and provide for their use;

- (i) prepare, print and distribute forms for use under this Act;
- (j) provide such guidelines as it considers necessary for the guidance of auditors and political parties, constituency associations and candidates and any of the officers thereof; and
- (k) publish a summary of each candidate's election receipts, expenses and subsidy in a newspaper having a general circulation in the electoral district in which he was a candidate.

Annual
report

(2) The Commission shall report annually upon the affairs of the Commission to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. 1975, c. 12, s. 4.

Powers of
Commission
under
R.S.O. 1980,
c. 411

5. For the purpose of carrying out any investigation or examination under this Act, the Commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation or examination as if it were an inquiry under that Act. 1975, c. 12, s. 5.

Powers of
inspection

6. For the purposes of an investigation or examination under this Act, a representative of the Commission, upon production of his authorization from the Commission to enter the premises (referred to in the authorization) in which the books, papers and documents of a political party, constituency association or candidate relevant to the subject-matter of the investigation or examination are kept, may at any reasonable time enter such premises and examine such books, papers and documents. 1975, c. 12, s. 6.

Information

7. Such information with respect to the affairs of a registered party or registered constituency association that is reasonably required in respect of its duties under this Act as the Commission may request shall be provided by the registered party or constituency association within thirty days after receiving a written request therefor from the Commission or within such extended period as the Commission may determine. 1975, c. 12, s. 7.

Expenditures
of
Commission

8. The remuneration of the members of the Commission and the expenditures required for the operation of the Commission are payable out of moneys appropriated therefor by the Legislature. 1975, c. 12, s. 8, *revised*.

9. The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor. 1975, c. 12, s. 9.

REGISTRATION

10.—(1) No political party and no person, corporation or trade union acting on behalf of the political party shall accept contributions for the purposes of the political party or for the purposes of any constituency association or for the candidacy of any person at an election or for an election campaign of any person unless the political party is registered under this Act. 1975, c. 83, s. 1.

Registration
of parties

(2) Any political party that,

Qualifications
for
registration

- (a) held a minimum of four seats in the Assembly following the most recent election;
- (b) nominated candidates in at least 50 per cent of the electoral districts in the most recent general election;
- (c) nominates candidates in at least 50 per cent of the electoral districts following the issue of a writ for a general election; or
- (d) at any time other than during a campaign period provides the Commission with the names, addresses and signatures of 10,000 persons who,
 - (i) are eligible to vote in an election, and
 - (ii) attest to the registration of the political party concerned,

may apply to the Commission for registration in the register of political parties.

(3) The Commission shall maintain a register of political parties and subject to this section shall register therein any political party that is qualified to be registered and that files an application for registration with the Commission, setting out,

Application
for
registration

- (a) the full name of the political party;
- (b) the political party name or abbreviation to be shown in any election documents;
- (c) the name of the leader of the political party;
- (d) the address of the place or places where records of the political party are maintained and of the place to which communications may be addressed;

- (e) the names of the principal officers of the political party;
- (f) the name of the chief financial officer of the political party;
- (g) the names of all persons authorized by the political party to accept contributions;
- (h) the name and address of every chartered bank, trust company or other financial institution that is lawfully entitled to accept deposits to be used by the political party as the depositories for contributions made to that political party;
- (i) the names of the political party signing officers responsible for each depository referred to in clause (h); and
- (j) a statement of the assets and liabilities of the political party as of a date not earlier than ninety days prior to the date of its application for registration attested to by the chief financial officer.

Registration
by
Commission

(4) Upon receipt of an application for registration of a political party, the Commission shall examine the application and determine if the political party can be registered, and,

- (a) if the political party can be registered, enter it in the register of political parties and so inform the political party; or
- (b) if the political party cannot be registered, so inform the political party with written reasons for its determination.

Name of
political
party

(5) The Commission shall not register a political party where the name of the party includes the word "independent" or where in the opinion of the Commission the name or the abbreviation of the name of the party so nearly resembles the name or abbreviation of the name of a registered party as to be likely to be confused with that registered party.

Variation
of register

(6) Where any of the information referred to in clauses (3) (a) to (j) is altered, the registered party shall notify in writing the Commission within thirty days of any such alteration and, upon receipt of any such notice, the Commission shall vary the register of political parties accordingly. 1975, c. 12, s. 10 (2-6).

11.—(1) No constituency association of a registered party and no person, corporation or trade union acting on behalf of the constituency association shall accept contributions for the purposes of the constituency association or for the purposes of the registered party or for the candidacy of any person at an election or for an election campaign of any person unless the constituency association is registered under this Act. 1975, c. 83, s. 2. Registration
of
constituency
associations

(2) The Commission shall maintain a register of constituency associations and, subject to this section, shall register therein any constituency association of a registered party that files an application for registration with the Commission setting out, Application
for
registration

- (a) the full name of the constituency association and of the registered party by which it is endorsed;
- (b) the address of the place or places where records of the constituency association are maintained and of the place to which communications may be addressed;
- (c) the names of the principal officers of the constituency association;
- (d) the name of the chief financial officer of the constituency association;
- (e) the names of all persons authorized by the constituency association to accept contributions;
- (f) the name and address of every chartered bank, trust company or other financial institution that is lawfully entitled to accept deposits to be used by the constituency association as the depositories for all contributions made to that constituency association;
- (g) the names of the constituency association signing officers responsible for each depository referred to in clause (f); and
- (h) a statement of the assets and liabilities of the constituency association as of a date not earlier than ninety days prior to the date of its application for registration attested to by the chief financial officer.

(3) Upon receipt of an application for registration of a constituency association, the Commission shall examine the application and determine if the constituency association can be registered and, Registration
by
Commission

- (a) if the constituency association can be registered, enter it in the register of constituency associations and so inform the constituency association; or

- (b) if the constituency association cannot be registered, so inform the constituency association with written reasons for its determination.

Variation
of register

(4) Where any of the information referred to in clauses (2) (a) to (g) is altered, the registered constituency association shall notify in writing the Commission within thirty days of any such alteration and, upon receipt of any such notice, the Commission shall vary the register of constituency associations accordingly. 1975, c. 12, s. 11 (2-4).

Application
of
registration
provisions
to certain
parties

12. Sections 10 and 11 do not apply to any political party or its constituency associations, except the political parties and their constituency associations that are deemed by section 13 to be registered under this Act, until the date named in a notice published by the Commission in *The Ontario Gazette* as the first day upon which applications for registration of political parties and constituency associations will be received for filing by the Commission. 1975, c. 12, s. 12.

Certain
political
parties and
constituency
associations
deemed
registered

13.—(1) Every political party that is qualified under clause 10 (2) (a) to be registered under this Act shall be deemed to be registered under this Act as of 3:00 o'clock in the afternoon on the 13th day of February, 1975 and each constituency association of such political party shall be deemed to be registered under this Act as of 3:00 o'clock in the afternoon on the 13th day of February, 1975.

Application
required

(2) When a political party or a constituency association referred to in subsection (1) or (5) receives a request in writing from the Commission to file an application for registration under this Act, it shall immediately comply with such request and when the political party or constituency association becomes registered as the result of the application therefor, subsection (1) ceases to apply to it.

Receipt of
contributions
before
registration
following
application

(3) Where contributions are received by or on behalf of a political party or constituency association referred to in subsection (1), during the period from 3:00 o'clock in the afternoon on the 13th day of February, 1975, to and including the day it becomes registered as a result of an application therefor under subsection (2), notwithstanding any other provision of this Act, the political party and constituency association shall cause each contribution accepted by it to be recorded as to amount and source and deposited in an account in a chartered bank, trust company or other institution that is lawfully entitled to accept deposits and shall issue receipts therefor in accordance with this Act within a reasonable time after it becomes registered as the result of an application therefor under subsection (2).

(4) Any constituency association referred to in subsection (1) that by reason of *The Representation Act, 1975*, Constituency associations abolished or replaced by changes in electoral districts 1975, c. 13

(a) ceases to exist, shall be deemed never to have been registered under subsection (1); or

(b) is replaced by another constituency association, such other constituency association shall be deemed to be an association referred to in subsection (1).

(5) Any new constituency association endorsed by a political party referred to in subsection (1) that was formed by reason of *The Representation Act, 1975* and that does not replace a constituency association referred to in subsection (1) shall be deemed to be registered under this Act on the date of its formation. 1975, c. 12, s. 13. New constituency association

14.—(1) The Commission may deregister,

(a) a registered party on an application therefor by the registered party; or Deregistration of parties and constituency associations, on application

(b) a registered constituency association on an application therefor by the constituency association and the registered party concerned.

(2) Where the chief financial officer of a registered party or registered constituency association fails to comply with section 42 or 43, the Commission may deregister the registered party or constituency association, as the case may be. For non-compliance with certain provisions of Act

(3) Where under subsection (2) the Commission proposes to deregister, Notice of proposal to deregister party or association

(a) a political party, it shall send by registered mail notice of its proposal with written reasons therefor to the political party; or

(b) a constituency association, it shall send by registered mail notice of its proposal with written reasons therefor to the constituency association and the political party concerned,

and the political party or constituency association so notified, within thirty days after the sending of the notice, may request the Commission in writing to review its proposal.

Review

(4) Where the Commission receives a written request to review its proposal, it shall review the proposal and give the political party and constituency association notified under subsection (3), an opportunity to make representation to the Commission and following a review of the proposal the Commission may withdraw its proposal or deregister the political party or constituency association, as the case may be, and shall,

(a) where the proposed deregistration involves a political party, notify it in writing; and

(b) where the proposed deregistration involves a constituency association, notify in writing the constituency association and the political party concerned,

of its decision.

Party and associations thereof deregistered

(5) Where a political party is deregistered, the registered constituency associations of such political party are thereby also deregistered.

Reregistration

(6) Where a political party or constituency association is deregistered for failure to comply with section 42 or 43, it may not apply for registration until the financial statements as required by section 42 or 43 together with the auditor's report thereon as required by subsection 41 (4) that were not filed have been filed with the Commission.

Disposition of funds upon deregistration

(7) Where a political party or constituency association is deregistered, all funds of the political party or constituency association not required to pay any outstanding debts thereof shall be paid over to the Commission and held by the Commission in trust for the political party or constituency association and, if the political party or constituency association does not become registered under this Act within a period of two years following its deregistration, the funds shall escheat to the Commission to be used by the Commission in carrying out its responsibilities under this Act. 1975, c. 12, s. 14.

Registration of candidate

15.—(1) No person and no person, corporation or trade union acting on behalf of such person and, except as provided under subsection 10 (1) and subsection 11 (1), no political party or association or organization thereof acting on behalf of

such person, shall accept contributions for the candidacy of such person at an election or for an election campaign of such person unless such person is a candidate registered under this Act. 1975, c. 83, s. 3.

(2) The Commission shall maintain a register of candidates in relation to each election held after the 2nd day of May, 1975 and, subject to this section, shall register therein any candidate that files an application for registration with the Commission setting out,

Application
for
registration

(a) that he,

(i) has been duly nominated in accordance with the *Election Act* in the electoral district of R.S.O. 1980,
c. 133

(ii) has not been duly nominated in accordance with the *Election Act* but has been nominated by the constituency association of and
in the electoral district of and
has enclosed with his application a statement to that effect attested to by the chief financial officer of the association, or

(iii) has not been duly nominated in accordance with the *Election Act* but, after the issue of a writ for an election in an electoral district, has declared himself an independent candidate at the election in the electoral district of ;

(b) the full name and address of the candidate;

(c) the political party affiliation, if any, of the candidate;

(d) the address of the place or places where records of the candidate are maintained and of the place to which communications may be addressed;

(e) the name of the auditor and chief financial officer of the candidate;

(f) the names of all persons authorized by the candidate to accept contributions;

(g) the name and address of every chartered bank, trust company or other financial institution that

is lawfully entitled to accept deposits to be used by or on behalf of the candidate as the depositories for all contributions made to that candidate; and

- (h) the names of the persons responsible for each depository referred to in clause (g).

Effective
date of
registration

(3) A candidate who files an application under subsection (2),

- (a) prior to the issue of a writ for an election shall be deemed to be registered effective from the issue of the writ; and

- (b) after the issue of a writ for an election shall be deemed to be registered on and after the day following the day of filing.

Mailing of
application
deemed
filing

(4) An application under subsection (2) may be filed with the Commission by registered mail in which case it shall be deemed to be filed on the second day after it is mailed.

Deregistra-
tion where
candidacy
withdrawn
R.S.O. 1980,
c. 133

(5) Where a registered candidate who was duly nominated in accordance with the *Election Act* withdraws his candidacy in accordance with that Act or a person who becomes registered before becoming so nominated does not become nominated as a candidate in accordance with the *Election Act*, he shall so notify the Commission in writing and the Commission shall delete his name from the register of candidates. 1975, c. 12, s. 15 (2-5).

Inspection
of informa-
tion on
file with
Commission

16.—(1) All documents filed with the Commission are public records and may be inspected by any person upon request at the offices of the Commission during normal office hours.

Extracts

(2) Any person may take extracts from the documents referred to in subsection (1) and is entitled to copies thereof upon payment for the preparation of the copies at such rate as the Commission may determine. 1975, c. 12, s. 16.

CONTRIBUTIONS

Contributors
and how
contribu-
tions to
be made

17.—(1) Contributions to political parties, constituency associations and candidates registered under this Act may be made only by persons individually, corporations and trade unions.

How con-
tributions
of money
to be made

(2) Moneys contributed to political parties, constituency associations and candidates registered under this Act in

amounts in excess of \$10 shall be made only by a cheque having the name of the contributor legibly printed thereon signed by the contributor and drawn on an account in the contributor's name or by a money order signed by the contributor.

(3) All moneys accepted by or on behalf of a political party, constituency association or candidate registered under this Act shall be paid into the appropriate depository on record with the Commission. 1975, c. 12, s. 17. Depositing
of con-
tributions

18. Any anonymous contribution received by a political party, constituency association or candidate registered under this Act shall not be used or expended, but shall be returned to the contributor if the contributor's identity can be established, and if the contributor's identity cannot be established, the contribution shall be paid over to the Commission and become part of the funds of the Commission to be used by the Commission in carrying out its responsibilities under this Act. 1975, c. 12, s. 18. Anonymous
contribu-
tions

19.—(1) Contributions by any person, corporation or trade union to political parties, constituency associations and candidates registered under this Act are limited to those set out in clauses (a) and (b) and shall not exceed, Limitation
on con-
tributions

(a) in any year,

(i) \$2,000 to each registered party, and

(ii) \$500 to any registered constituency association, but in respect of registered constituency associations of a registered party, an aggregate of \$2,000 to constituency associations of each registered party; and

(b) in any campaign period in addition to contributions authorized under clause (a),

(i) \$2,000 in relation to the election in such period to each registered party, and

(ii) \$500 in relation to the election in such period to any registered candidate, but in respect of candidates endorsed by a registered party, an aggregate of \$2,000 to registered candidates of each registered party.

(2) Where writs for two or more by-elections bear the same date and provide for the same polling day, all such by-elections shall be deemed one election for the purposes of clause (1) (b). By-elections

Candidate's
funds
deemed
contribu-
tion

(3) Any moneys to be used for a political campaign by a candidate out of his own funds shall be deemed to be a contribution for the purposes of this Act and shall be paid into a depository on record with the Commission. 1975, c. 12, s. 19.

Contributor
to contribute
only funds
belonging
to him

20.—(1) Subject to section 32, no person, corporation or trade union shall contribute to any political party, constituency association or candidate registered under this Act funds not actually belonging to him or it or any funds that have been given or furnished to him or it by any person or group of persons or by a corporation or trade union for the purpose of making a contribution thereof.

Prohibition
to accept
contribu-
tions
contrary to
subsection (1)

(2) No political party, constituency association or candidate registered under this Act, and no person on its or his behalf shall solicit or knowingly accept any contribution contrary to the provisions of subsection (1).

Return of
contribu-
tion

(3) Where the chief financial officer learns that any contribution received by or on behalf of the political party, constituency association or candidate for whom he acts was made contrary to subsection (1), he shall, within thirty days after learning that the contribution was made contrary to subsection (1), return the contribution or an amount equal to the sum contributed. 1975, c. 12, s. 20.

Funds from
federal
parties
1973-74,
c. 51 (Can.)

21. No political party, constituency association or candidate registered under this Act shall accept funds from a federal political party registered under the *Election Expenses Act* (Canada) except that during a campaign period a registered party may accept from such a federal political party an amount not exceeding, in the aggregate, \$100 for each registered candidate endorsed by that registered party and such funds shall be considered not to be contributions for the purposes of this Act but shall be recorded as to source and deposited in the appropriate depository on record with the Commission. 1975, c. 12, s. 21.

Value of
goods and
services

22.—(1) The value of goods and services, other than those that are not contributions under clause 1 (1) (g), provided to a political party, constituency association or candidate registered under this Act shall be,

(a) where the contributor is in the business of supplying such goods or services, the lowest amount charged

by him or it for an equivalent amount of the same goods and services at or about the time and in the market area in which the goods or services are provided; and

- (b) where the contributor is not in the business of supplying such goods or services, the lowest amount charged, at or about the time the goods or services are provided, by any other person or corporation providing the same goods on a commercial retail basis or services on a commercial basis in the market area in which the goods or services are provided.

(2) Only,

Amount
over \$100
considered
contribu-
tions

- (a) a contribution of goods or services having a value of more than \$100; and
- (b) contributions of goods or services from a single source in any year, excluding any campaign period or part thereof in that year, or in any campaign period that in the aggregate have a value of more than \$100,

shall be considered as a contribution for the purposes of this Act.

(3) Where goods or services are provided to a political party, constituency association or candidate registered under this Act for a price that is less than the value of the goods or services as determined under subsection (1), the amount that the price is less than such value shall, subject to subsection (2), be a contribution for the purposes of this Act.

Where goods
or services
provided for
price less
than value
determined
under subs. (1)

23.—(1) Where any person, corporation or trade union with the knowledge and consent of a political party or candidate registered under this Act promotes the political party or the election of the candidate or opposes any other registered party or the election of any other registered candidate by advertising on the facilities of any broadcasting undertaking or by publishing an advertisement in any newspaper, magazine or other periodical publication or printed leaflets, pamphlets or other documents or through the use of any outdoor advertising facility and the amount of the cost thereof,

Advertising
as con-
tribution

- (a) in the case of any single such advertisement or publication is more than \$100; and

- (b) in the case of any such advertisements and publications from a single source published in any year, excluding any campaign period or part thereof in that year, or in any campaign period in the aggregate exceeds \$100,

such amount shall be considered as a contribution for the purposes of this Act to the political party or candidate with whose knowledge and consent the advertising was done.

Identifica-
tion

(2) No person, corporation, trade union or registered party or constituency association shall cause any political advertisement to be published in any newspaper, magazine or other periodical publication or through the use of any outdoor advertising facility unless he or it furnishes to the publisher of the advertisement his or its identification, in writing, together with the identification, in writing, of any person, corporation or trade union or registered party or constituency association sponsoring the political advertisement.

Inspection
of
publisher's
records

(3) Any publisher who publishes a political advertisement shall maintain records for a period of two years after the date of publication setting forth such advertisement, the charge therefor and any material relating to identification furnished to him in connection therewith and shall permit the public to inspect such records during normal office hours.

Political
advertis-
ment

(4) For the purposes of subsections (2) and (3), "political advertisement" means any matter promoting or opposing any registered party or the election of any registered candidate but does not include any *bona fide* news stories (including interviews, commentaries or other works prepared for and published by any newspaper, magazine or other periodical publication the publication of which works are not paid for by or on behalf of any political party, constituency association or candidate). 1975, c. 12, s. 23.

Fund-
raising
events

24.—(1) In this section, "fund-raising function" includes suppers, dances, garden parties and any other social function held for the purpose of raising funds for the political party, constituency association or candidate registered under this Act by whom or on whose behalf the function is held.

Income
to be
reported

(2) The gross income from any fund-raising function shall be recorded and reported to the Commission by the chief financial officer of the political party, constituency association or candidate registered under this Act that held or on whose behalf the function was held.

(3) Where an individual charge by the sale of tickets or otherwise is made for a fund-raising function, half of the charge shall be allowed for expenses and, where the amount of the other half of the charge exceeds \$10, such amount shall be considered a contribution to the political party, constituency association or candidate registered under this Act that held or on whose behalf the function was held, provided that where the individual charge is \$50 or more the amount allowed for expenses shall be \$25 and the amount of the charge in excess of \$25 shall be considered a contribution.

When part of individual charge considered contribution

(4) Except as provided in subsection (3), funds raised by a fund-raising function shall be considered not to be contributions for the purposes of this Act. 1975, c. 12, s. 24.

Funds raised

25. Where at a meeting held on behalf of or in relation to the affairs of a candidate, political party or constituency association registered under this Act money is given in response to a general collection of money solicited from the persons in attendance at the meeting, no amount shall be given anonymously by any person in excess of \$5 and the amounts so given shall be considered not to be contributions for the purpose of this Act but the gross amount collected shall be recorded and reported to the Commission by the chief financial officer of the candidate, political party or association, as the case may be. 1975, c. 12, s. 25.

Collection of moneys at meetings

26. Every political party, constituency association or candidate registered under this Act shall issue or cause to be issued receipts as required by the Commission for every contribution accepted. 1975, c. 12, s. 26.

Receipts

27.—(1) Any contribution to a political party, constituency association or candidate registered under this Act made through any unincorporated association or organization, except a trade union, shall be recorded by the unincorporated association or organization as to the individual sources and amounts making up such contribution.

Group contributions

(2) The amounts making up a contribution under subsection (1) that are attributable to any person, corporation or trade union are contributions of such person, corporation or trade union for the purposes of this Act. 1975, c. 12, s. 27.

Application of Act to amounts making up contribution

28. A registered party, and any of its constituency associations or official candidates registered under this Act may transfer to or accept funds, goods and services from each other and all such funds, goods and services accepted by such political party, constituency association or candidate shall be

Transfer of funds, etc., among parties, constituency associations and candidates

considered not to be contributions for the purposes of this Act but shall be recorded as to source and any funds accepted shall be deposited in the appropriate depository on record with the Commission. 1975, c. 12, s. 28.

Parties,
etc., not
to receive
contribu-
tions in
excess of
limitations

29.—(1) No political party, constituency association or candidate registered under this Act and no person on its or his behalf shall knowingly accept any contributions in excess of the limits imposed by this Act.

Return of
contribu-
tion

(2) Where the chief financial officer learns that any contribution was accepted by or on behalf of the political party, constituency association or candidate for whom he acts in excess of the limits imposed by this Act, he shall, within thirty days after learning thereof, return the amount of the contribution that is in excess of the limits. 1975, c. 12, s. 29.

Contribu-
tions
prohibited
from outside
Ontario and
to persons,
etc., outside
Ontario

30.—(1) No political party, constituency association or candidate registered under this Act shall, directly or indirectly,

(a) knowingly accept contributions from any person normally resident outside Ontario, from any corporation that does not carry on business in Ontario or from a trade union other than a trade union as defined in this Act; or

(b) contribute or transfer funds to any political party, constituency association or candidate not registered under this Act except that “during an election” as defined in the *Canada Elections Act* a registered party may transfer to a federal political party registered under the *Election Expenses Act* (Canada) an amount not exceeding, in the aggregate, \$100 for each candidate at a federal election in a federal electoral district in Ontario who is endorsed as a candidate by that federal party.

1973-74,
c. 14 (Can.)

1973-74,
c. 51 (Can.)

Return of
contribution

(2) Where the chief financial officer learns that any contribution was accepted by or on behalf of the political party, constituency association or candidate for whom he acts from any person normally resident outside Ontario or from any corporation that does not carry on business in Ontario or from a trade union other than a trade union as defined in this Act, he shall, within thirty days after learning thereof, return the contribution or an amount equal to the sum contributed. 1975, c. 12, s. 30.

Annual
membership
fees

31. An annual membership fee paid for membership in a political party or in a constituency association of such party

or in both may be considered not to be a contribution for the purposes of this Act provided such fee or, where a fee is paid to the party and to a constituency association of that party, the total of such fees does not exceed \$10 and the political party and constituency association maintain a membership list indicating the amount of such fee or fees paid by each member that is allocated to the political party or constituency association, as the case may be. 1975, c. 12, s. 31.

32. Contributions of not more than 10 cents per month by any member of a bargaining unit represented by a trade union through payroll deductions shall not be considered contributions from a person for the purposes of this Act, but any amounts contributed to a political party, constituency association or candidate registered under this Act from such funds shall be deemed to be a contribution from the trade union. 1975, c. 12, s. 32. Trade unions check-off

33. No contribution shall be accepted by a registered candidate otherwise than through his chief financial officer or other person on record with the Commission as authorized to accept contributions. 1975, c. 12, s. 33. Who may accept contributions for candidate

34.—(1) Every political party and constituency association that is applying for registration under this Act, before filing its application with the Commission, and every political party and constituency association that is deemed by section 13 to be registered under this Act, within 30 days after the 2nd day of May, 1975, shall appoint a chief financial officer. Chief financial officer, of party or association

(2) Every candidate shall appoint a chief financial officer for the purposes of this Act. of candidate

(3) Where a chief financial officer appointed under subsection (1) or (2) ceases for any reason to hold office as such, the political party, constituency association or candidate, as the case may be, shall forthwith appoint another chief financial officer. Idem

(4) The chief financial officer of a political party, constituency association and candidate registered under this Act in relation to the affairs of the party, constituency association or candidate who appointed him, shall be responsible for ensuring that, Responsibilities

- (a) proper records are kept of all receipts and expenditures;
- (b) contributions are placed in the appropriate depository;

- (c) proper receipts are completed and dealt with in accordance with this Act;
- (d) the financial statements as required by sections 42 and 43 together with the auditor's report thereon are filed with the Commission in accordance with this Act; and
- (e) contributions consisting of goods or services are valued and recorded in accordance with this Act. 1975, c. 12, s. 34.

Recording
of con-
tributions

35.—(1) Where any person, on behalf of a political party, constituency association or candidate registered under this Act accepts in any year,

- (a) a single contribution in excess of \$10; or
- (b) contributions from a single source in any year, excluding any campaign period or part thereof in that year, or in any campaign period that in the aggregate exceed \$10,

the chief financial officer shall record all such contributions and in the case of a single contribution of more than \$100 and contributions from a single source in any year, excluding any campaign period or part thereof in that year, or in any campaign period that in the aggregate exceed \$100, the name and address of the contributor.

Recording of
contribu-
tions for
election
campaign to
be separate
from annual
contribu-
tions

(2) All contributions referred to in subsection (1) accepted on behalf of a political party, constituency association or candidate registered under this Act during a campaign period in any year shall be recorded separately from other contributions accepted during that year.

Returns

(3) Every political party, constituency association and candidate registered under this Act shall file with the Commission,

- (a) within the period during which a financial statement must be filed relating to a campaign period, a return setting out all the information required to be recorded under subsections (1) and (2) by the political party, constituency association or candidate relating to the campaign period; and
- (b) within the period during which an annual financial statement must be filed, a return setting out all the information required to be recorded under subsection (1), excluding the information required to be included in a return under clause (a). 1975, c. 12, s. 35.

BORROWING

36. A political party, constituency association or candidate registered under this Act may borrow from any chartered bank or other recognized lending institution provided that all such loans and the terms thereof are recorded by the political party, constituency association or candidate and reported by it or him to the Commission. 1975, c. 12, s. 36.

Borrowing
by parties,
etc.

LOANS

37.—(1) No person, corporation, trade union, or unincorporated association or organization shall sign, co-sign or provide collateral responsibility for any loan, monetary obligation or indebtedness on behalf or in the interest of any political party, constituency association or candidate registered under this Act.

Guarantee
of loans
to parties,
etc.,
prohibited

(2) No political party, constituency association or candidate registered under this Act shall receive any contribution from any person, corporation, trade union, or unincorporated association or organization in the form of a loan other than from a registered party or registered constituency association.

Parties,
etc., not
to accept
loans

(3) Subsections (1) and (2) do not apply to a guarantee of a loan referred to in section 36. 1975, c. 12, s. 37.

Exception

CAMPAIGN ADVERTISING

38.—(1) No political party, constituency association or candidate registered under this Act and no person acting with its or his knowledge and consent shall, after the issue of a writ for an election and before the day immediately following polling day, except during the period of twenty-one days immediately preceding the day before polling day,

Period of
campaign
advertising
limited

(a) advertise on the facilities of any broadcasting undertaking; or

(b) procure for publication, cause to be published or consent to the publication of, except during such period, an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for the purpose of promoting or opposing any registered party or the election of a registered candidate.

Exceptions

(2) Subsection (1) does not apply,

- (a) to advertising of public meetings in constituencies;
- (b) to announcing constituency headquarters locations;
- (c) to announcing services for voters by constituency associations respecting enumeration and revision of lists of voters; or
- (d) to any other matter respecting administrative functions of constituency associations,

provided that advertisements, announcements and other matters are done in accordance with the guidelines of the Commission. 1975, c. 12, s. 38 (1, 2).

Extension
of period
of campaign
advertising

(3) Nothing contained in subsection (1) shall prohibit the procuring for publication, causing to be published or consenting to the publication of an advertisement referred to therein on the day before polling day in a newspaper which is published in Ontario not more frequently than once a week and whose day of regular publication falls on the day before polling day. 1977, c. 2, s. 1.

Rates to be
charged to
parties,
constituency
associations
and
candidates
for broad-
casting time
and adver-
tising space

(4) No person or corporation shall,

- (a) charge a registered party, constituency association or candidate, or any person acting with its or his knowledge and consent, a rate for broadcasting time on any broadcasting undertaking in the period beginning on the twenty-first day before the day immediately before polling day at an election and ending on the second day before polling day, that exceeds the lowest rate charged by him or it for an equal amount of equivalent time on the same facilities made available to any other person in that period; or
- (b) charge a registered party, constituency association or candidate, or any person acting with its or his knowledge and consent, a rate for an advertisement in a periodical publication published or disbursed and made public in the period referred to in clause (a) that exceeds the lowest rate charged by him or it for an equal amount of equivalent advertising space in the same issue of the periodical or in any other issue thereof published or disbursed and made public in that period. 1975, c. 12, s. 38 (3).

Limitation
on
advertising
costs

39. The total expenses incurred for advertising by a political party, constituency association or candidate registered under this Act, including advertising done by any

person, corporation or trade union with the knowledge and consent of the political party, constituency association or candidate, by the use of time on the facilities of any broadcasting undertaking or by publishing in any newspaper, magazine or other periodical publication or by display through the use of any outdoor advertising facility shall not, during the period referred to in subsection 38 (1) exceed,

- (a) in the case of a registered party in relation to a general election, the aggregate amount determined by multiplying 25 cents by the number of names appearing on all of the revised lists of voters at the election for the electoral districts in which there is an official candidate of the party;
- (b) in the case of a registered party in relation to a by-election in an electoral district, the amount determined by multiplying 50 cents by the number of names appearing on the revised list of voters for the electoral district; and
- (c) in the case of,
 - (i) a registered constituency association of a registered party and the official candidate of such party in an electoral district, or

- (ii) an independent candidate in an electoral district,

the amount determined by multiplying 25 cents by the number of names appearing on the revised list of voters for the electoral district. 1975, c. 12, s. 39.

FOUNDATION

40.—(1) A political party shall, prior to filing an application for registration under this Act, establish a non-profit corporation as a foundation for the purposes of receiving and managing the assets, except the premises, equipment, supplies and other such property required for the administration of the affairs of the party, held by the political party immediately prior to filing such application and,

- (a) all the assets of the foundation shall consist of deposits with The Province of Ontario Savings Office, a bank to which the *Bank Act* (Canada) applies or a trust company registered under the *Loan and Trust Corporations Act* or shall be invested in investments authorized for trust moneys by the *Trustee Act*;

Establishment of foundation

1980-81,
c. 40

R.S.O. 1980,
cc. 249, 512

- (b) no funds or other property shall be received by or transferred to the foundation after the filing of an application for registration of that political party other than interest on the amounts on deposit or the income from investments referred to in clause (a); and
- (c) the foundation shall file with the Commission, on or before the 31st day of May in each year, a report of the expenditures of the foundation during the previous year.

Foundation
funds not
contribu-
tions

(2) Funds transferred by the foundation to a political party, constituency association or candidate are not contributions for the purposes of this Act but shall be recorded as to amount and source by the recipient of the funds. 1975, c. 12, s. 40.

AUDITORS

Appointment
of auditor,
by party or
constituency
association

R.S.O. 1980,
c. 405

41.—(1) Every candidate, at the time of appointment of his chief financial officer, and every registered party and registered constituency association, within thirty days after becoming registered under this Act, shall appoint an auditor licensed under the *Public Accountancy Act* or a firm whose partners are licensed under that Act.

Idem

(2) Where an auditor appointed under subsection (1) ceases for any reason, including resignation, to hold office as such, ceases to be qualified as provided in subsection (1) or becomes ineligible as provided in subsection (3), the candidate, party or constituency association, as the case may be, shall forthwith appoint another auditor licensed under the *Public Accountancy Act* or firm whose partners are licensed under that Act,

Persons not
eligible

(3) No returning officer, deputy returning officer or election clerk and no candidate, official agent or chief financial officer of a candidate or chief financial officer of a registered party or constituency association shall act as the auditor for a candidate or registered party or constituency association, but nothing in this subsection makes ineligible the partners or firm with which such a person is associated from acting as an auditor for a candidate or registered party or constituency association.

Auditor's
report

(4) The auditor appointed under subsection (1) or (2) shall make a report to the chief financial officer of a candidate, political party or constituency association that appointed him in respect of the financial statements, as required by sections 42 and 43, and shall make such

examination as will enable him to state in his report whether in his opinion the financial statement presents fairly the information contained in the accounting records on which the financial statement is based.

(5) An auditor, in his report under subsection (4), shall make such statements as he considers necessary in any case where, Where statement required

(a) he has not received from the chief financial officer all the information and explanation that he has required; or

(b) proper accounting records have not been kept by the chief financial officer so far as appears from his examination.

(6) An auditor appointed under subsection (1) or (2) shall have access at all reasonable times to all records, documents, books, accounts and vouchers of the candidate, political party or constituency association that appointed him and is entitled to require from his or its chief financial officer such information and explanation as in his opinion may be necessary to enable him to report as required by subsection (4). Right of access

(7) The Commission shall subsidize the cost of auditors' services for constituency associations and candidates by paying, Audit subsidy

(a) to the auditor of each constituency association in respect of an audit for the association under section 42 and under section 43, the lesser of \$250 and the amount of the auditor's account to the association; and

(b) to the auditor of a candidate in respect of an audit for the candidate under section 43, the lesser of \$500 and the amount of the auditor's account to the candidate. 1975, c. 12, s. 41.

AUDIT

42.—(1) The chief financial officer of every political party and constituency association registered under this Act shall, on or before the 31st day of May in the year 1976 and in each year thereafter, file with the Commission financial statements of assets and liabilities and of receipts and expenses for the previous year of the political party or constituency association for which he acts, excluding cam- Annual filing of financial statement and report

paigned receipts and expenses relating to an election during a campaign period, together with the auditor's report thereon as required by subsection 41 (4).

Where
registration
within four
months of
end of year

(2) Where a political party or constituency association becomes registered under this Act within the last four months of any year, the financial statement filed with its application for registration shall be deemed compliance with subsection (1) in relation to that year. 1975, c. 12, s. 42.

Campaign
period
filing of
financial
statement
and report

43.—(1) The chief financial officer of every political party, constituency association and candidate registered under this Act shall, within six months after polling day, file with the Commission a financial statement of receipts and expenses of the political party, constituency association or candidate for which he acts relating to the election during the campaign period, together with the auditor's report thereon as required by subsection 41 (4).

By-elections

(2) In relation to a by-election, subsection (1) applies only to registered parties and constituency associations that received contributions or made expenditures in relation to such by-election and to registered candidates at such by-election.

Candidate

(3) In this section, "candidate" means a person who is duly nominated as a candidate at an election in accordance with the *Election Act*. 1975, c. 12, s. 43.

R.S.O. 1980,
c. 133

Failure of
candidate
not elected
to file
statement
and report

44.—(1) Where the chief financial officer of a registered candidate who is not declared elected fails to file a financial statement as required by section 43, together with the auditor's report thereon as required by subsection 41 (4), the candidate, in addition to any other penalty, is ineligible to stand as a candidate at any election up to and including the next general election unless prior thereto he or his chief financial officer has filed such financial statement and the auditor's report thereon with the Commission.

Failure
of elected
candidate
to file
statement
and report

(2) Where the chief financial officer of a registered candidate who is elected as a member of the Assembly fails to file a financial statement as required by section 43, together with the auditor's report thereon as required by subsection 41 (4), the Commission shall notify the Speaker who shall inform the Assembly and if the Assembly finds no mitigating reason for non-compliance, the member may not resume his seat in the Assembly until he or his chief financial officer has filed such statement and the auditor's report thereon with the Commission and the Commission has so notified the Speaker, and, in addition,

the member is liable to any other penalty that may be imposed under any Act.

(3) Where a member or his chief financial officer fails to file a financial statement and the auditor's report thereon with the Commission within sixty days after the Speaker has informed the Assembly under subsection (2), the Speaker shall so inform the Assembly and the seat of the member shall thereby be vacated and the Speaker shall address his warrant under his hand and seal to the Chief Election Officer for the issue of a writ for the election of a member in the place of the member whose seat is vacated and the writ shall issue accordingly. 1975, c. 12, s. 44.

Vacation
of seat

PUBLIC FUNDING OF CANDIDATE EXPENSES

45.—(1) Every registered candidate in an electoral district who receives at least 15 per cent of the popular vote in such electoral district is entitled to be reimbursed by the Commission for the lesser of his campaign expenses for the campaign period as shown on his financial statement of receipts and expenses filed with the Commission in accordance with section 43, together with the auditor's report in accordance with subsection 41 (4), or the amount that is the aggregate of 16 cents for each of the first 25,000 voters in his electoral district and 14 cents for each voter in excess of 25,000 in his electoral district.

Reimburse-
ment of
election
expenses

(2) In relation to candidates in the electoral districts of Cochrane North, Rainy River, Kenora, Lake Nipigon, Algoma and Nickel Belt, as set out in the Schedule to the *Representation Act*, the amount determined under subsection (1) shall be increased by \$2,500.

Idem

R.S.O. 1980,
c. 450

(3) A candidate is not entitled to be reimbursed for expenses under subsection (1) unless he or his chief financial officer has filed a financial statement of receipts and expenses as required by section 43, together with the auditor's report thereon as required by subsection 41 (4), and the Commission is satisfied that such statement meets the requirements of this Act.

No reim-
bursement
unless
financial
statement
and report
filed

(4) Where the candidate's financial statement shows a deficit and the candidate is entitled to be reimbursed for expenses under subsection (1), the moneys payable to his chief financial officer shall be first applied to discharge the debts creating the deficit.

Moneys to
be applied
to discharge
debts of
candidate

Surplus in
candidate's
account

(5) Any surplus, determined by taking into account in the financial statement of an official candidate for a registered party the moneys paid to the candidate's chief financial officer under this section, shall be paid over to one or more registered parties or registered constituency associations.

Voter

(6) In this section "voter" in an electoral district means a person whose name appears on the revised list of voters for that electoral district. 1975, c. 12, s. 45.

FORMS

Form

46. All applications, returns, statements, balance sheets, and other documents required to be filed with the Commission shall be filed in the form prescribed therefor by the Commission. 1975, c. 12, s. 46.

OFFENCES

Offence
by chief
financial
officer

47.—(1) The chief financial officer of a political party, constituency association or candidate registered under this Act who contravenes section 42 or 43 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Offence by
party or
constituency
association

(2) Where any contravention of this Act that is an offence by virtue of subsection (1) is committed by a chief financial officer of a political party, constituency association or candidate registered under this Act, the political party or constituency association or candidate for which the chief financial officer acts is guilty of an offence and on conviction is liable,

(a) in the case of a registered party, to a fine of not more than \$2,000; and

(b) in the case of a registered constituency association or registered candidate, to a fine of not more than \$1,000. 1975, c. 12, s. 47.

Offence by
corporation
or union

48. Every corporation or trade union that contravenes any of the provisions of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 1975, c. 12, s. 48.

General
offence

49. Every person, political party or constituency association that contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1975, c. 12, s. 49.

50. No person shall obstruct a person making an investigation or examination under this Act or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation or examination. 1975, c. 12, s. 50.

Offence for obstructing investigation

51. No person shall knowingly make a false statement in any application, return, financial statement or other document filed with the Commission under this Act. 1975, c. 12, s. 51.

Offence for false statement

52. No person shall knowingly give false information to a chief financial officer or other person authorized to accept contributions. 1975, c. 12, s. 52.

Offence for false information

53.—(1) A prosecution for an offence under this Act may be instituted against a political party, constituency association or trade union in the name of the political party, constituency association or trade union and for the purposes of any such prosecution, a political party, constituency association or trade union shall be deemed to be a person.

Style of prosecution of party, constituency association or union

(2) Any act or thing done or omitted by an officer, official or agent of a political party, constituency association or trade union within the scope of his authority to act on behalf of the political party, constituency association or trade union shall be deemed to be an act or thing done or omitted by the political party, constituency association or trade union. 1975, c. 12, s. 53.

Vicarious responsibility

54. No prosecution shall be instituted under this Act without the consent of the Commission. 1975, c. 12, s. 54.

Consent of Commission

CHAPTER 135

Elevating Devices Act

1. In this Act,

Interpre-
tation

- (a) “alteration” means an alteration or replacement, removal or addition of any component or part of an elevating device that results in, or may result in, a change in the original design, inherent safety or operational characteristics of the elevating device, and “altered” has a corresponding meaning;
- (b) “attendant” means a person who, as the whole or a part of his normal duties,
 - (i) operates an elevating device that is equipped with operating devices that are automatically rendered inoperative should an unsafe condition for operation of the elevating device arise, or
 - (ii) actively engages in or supervises the loading, passage or unloading of persons or freight on an elevating device;
- (c) “contractor” means a person who performs for his own benefit or for the benefit of another, with or without compensation, any work with respect to the installation, alteration, repair or maintenance of an elevating device or part thereof but does not include an employee;
- (d) “Deputy Minister” means the Deputy Minister of Consumer and Commercial Relations;
- (e) “design submission” means drawings, specifications, calculation sheets, work test certificates and any other information prescribed by regulation for an elevating device or part thereof submitted to the Ministry for the purpose of registration;
- (f) “Director” means the Director of the Elevating Devices Branch of the Ministry;
- (g) “elevating device” means a non-portable device for hoisting and lowering or moving persons or freight, and

includes an elevator, dumbwaiter, escalator, moving walk, manlift, passenger ropeway, incline lift, construction hoist, stage lift, platform lift and stairway lift as defined in the regulations;

- (h) “freight” means any substance, article or thing;
- (i) “inspector” means an inspector appointed for the purposes of this Act;
- (j) “major alteration” means a major alteration as defined in the regulations;
- (k) “maximum capacity” means the weight that an elevating device is designed and constructed to carry safely as prescribed by the regulations;
- (l) “mechanic” means a person who has a minimum of four years work experience directly related to the work assigned to him and who has full knowledge of this Act and the regulations and of the codes applicable to the elevating device upon which he is assigned to work;
- (m) “Minister” means the Minister of Consumer and Commercial Relations;
- (n) “Ministry” means the Ministry of Consumer and Commercial Relations;
- (o) “operator” means a person who in the normal course of his duties,
 - (i) operates an elevating device that is equipped with operating devices that are not automatically rendered inoperative upon the arising of a condition rendering the operation of the elevating device unsafe, and
 - (ii) has direct and full control of any movement of the load-carrying unit of the elevating device;
- (p) “owner” includes the person in charge of an elevating device as owner, licensee, lessee, agent or otherwise, but does not include an attendant or operator as such;
- (q) “professional engineer” means a person who is a member of the Association of Professional Engineers of the

Province of Ontario or who is licensed to practise as a professional engineer under the *Professional Engineers Act*; R.S.O. 1980, c. 394

- (r) "regulations" means the regulations made under this Act. 1980, c. 9, s. 1.

2. This Act does not apply to,

Where Act
does not
apply

- (a) elevating devices in or in connection with private dwelling houses used exclusively by the occupants thereof and their guests unless the owner of the device requests that this Act be applied to it;
- (b) feeding machines or belt, bucket, scoop, roller or similar type of freight conveyor or material handling device;
- (c) a lifting device that is an intermediate part of a fully automatic conveyor or material handling system;
- (d) freight ramps having a means of adjusting the slope of the ramp;
- (e) freight platforms, on which the riding of persons is prohibited, having a rise of two metres or less;
- (f) lubrication hoists or other similar mechanisms;
- (g) piling or stacking machines used within one storey;
- (h) elevating devices that are,
 - (i) installed in or adjacent to a barn, and
 - (ii) used by the proprietor of the barn or a tenant thereof exclusively for his agricultural purposes;
- (i) lifting devices that are,
 - (i) at each entrance mechanically loaded or unloaded by a conveyor or other fixed mechanism,
 - (ii) so fenced in or guarded as to prevent persons from accidentally entering the hoistway,

- (iii) in a location inaccessible to the general public, and
- (iv) controlled by designated trained personnel only;
- (j) powered platforms that are designed to provide access to the exterior or interior of a building or structure and that consist of a suspended working platform, a roof car, or other suspension means and track or guidance systems;
- (k) automated window cleaning mechanisms;
- (l) dumbwaiters, having a car-floor area less than 0.2 square metres, maximum capacity less than ten kilograms and the sill of every hoistway opening 0.8 metres or more above floor level; and
- (m) any class or subclass of elevating devices exempted by the regulations. 1980, c. 9, s. 2.

Appointment
of inspectors
and Director

3.—(1) Such inspectors as may be necessary to enforce this Act and the regulations may be appointed by the Deputy Minister and the Deputy Minister may designate one of the inspectors as the Director for the purposes of the general administration of this Act and the regulations including the supervision and direction of inspectors.

Certificate
of
appointment

(2) The Deputy Minister shall issue a certificate of appointment, bearing his signature or a facsimile thereof, to every inspector.

Production
of
certificate

(3) Every inspector, while in the exercise of any of his powers or duties under this Act, shall produce his certificate of appointment upon request. 1980, c. 9, s. 3.

Special
inspector

4. The Deputy Minister may authorize the Director to employ the services of a qualified person to inspect any elevating device, in which case and for such purpose only that person shall be deemed to be an inspector. 1980, c. 9, s. 4.

Right to
examine
person
under oath

5. For the purpose of an inspection or an investigation under this Act, the Director may, by notice in writing, require the attendance before him of any person at the time and place named in the notice and may then and there examine such person under

oath regarding any matter pertaining to the inspection or investigation. 1980, c. 9, s. 5.

6.—(1) An inspector may, for the purposes of carrying out his duties under this Act and the regulations, Powers of inspectors

- (a) subject to subsection (3), at any time without a warrant, enter in or upon any premises where he has reason to believe that an elevating device is being installed or operated and inspect an elevating device;
- (b) require the production of any licence, drawings, notice, document, report or record required by this Act or the regulations and examine and copy the same and may require information from any person concerning any matter related to an elevating device or the handling or use thereof;
- (c) by notice in writing, require an owner to prepare his elevating device or any part thereof for inspection;
- (d) require the owner, attendant, operator, contractor or any user of an elevating device to do or refrain from doing anything the inspector considers necessary during an inspection;
- (e) be accompanied by any person who has special or expert knowledge of any matter in relation to an elevating device or a part thereof or use thereof;
- (f) require the owner of an elevating device to conduct at his own expense such tests as the inspector specifies;
- (g) alone, or in conjunction with such other person or persons possessing special or expert knowledge or skill as the Director designates, make such examinations, tests, inquiries as may be necessary to ascertain whether this Act and the regulations are being complied with, and for such purpose take or remove any material or part, subject to the owner being notified thereof.

(2) In carrying out his duties under this Act, an inspector shall apply such safety codes as are prescribed by this Act and the regulations. Safety codes

(3) An inspector shall not enter any room or place actually being used as a dwelling where the occupier refuses entry except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*. 1980, c. 9, s. 6. Limit on power to enter

Obstructing
inspector
prohibited

7.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act and the regulations.

Assisting
inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and duties under this Act and the regulations.

Failure to
comply

(3) No person shall neglect or refuse to produce a licence, drawing, specification, record or report as required by an inspector under clause 6 (1) (b).

Providing
information

(4) No person shall furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act and the regulations. 1980, c. 9, s. 7.

Disclosure of
information

8.—(1) An inspector shall not publish, disclose or communicate to any person any information, record, report or statement acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act and the regulations.

Idem

(2) The Director may communicate or allow to be communicated, disclosed or published information, material, statements or test results acquired, furnished, obtained or made under the powers conferred under this Act and the regulations. 1980, c. 9, s. 8.

Liability of
inspector

9.—(1) No action or other proceeding for damages lies or shall be instituted against an inspector for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

Liability
of Crown
R.S.O. 1980,
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an inspector to which it would otherwise be subject and the Crown is liable under that Act for any such tort in like manner as if subsection (1) had not been enacted. 1980, c. 9, s. 9.

Inspection
order

10.—(1) Where an inspector finds that any provision of this Act or the regulations is being contravened, he may serve the person he believes to be the contravenor and that person's supervisor or employer, or any of them, an order in writing directing compliance with the provision and may require the order to be

carried out forthwith or within such time as is specified in the order.

(2) An order under this section shall contain sufficient information to specify the nature of the contravention. Idem

(3) Where in the opinion of an inspector there is a contravention of this Act or the regulations of such a nature as may pose a serious hazard to the safety of any person or property, he shall order that the elevating device in respect of which the contravention exists not be operated or used and shall affix a seal thereto. Affixing seal

(4) Where a seal has been affixed to an elevating device under subsection (3), no person shall remove the seal except an inspector or a mechanic authorized by an inspector for the purpose of making the elevating device conform to this Act and the regulations. Idem

(5) Any person aggrieved by an order made under this section may appeal to the Director who shall hear and dispose of the appeal but such an appeal does not affect the operation of the order appealed from pending disposition of the appeal. Appeal of order

(6) An appeal under subsection (5) need not be made in writing, but the Director may require the grounds for appeal to be specified in writing before the appeal is heard. Idem

(7) On an appeal under this section, the Director may substitute his findings or opinion for those of the inspector who made the order appealed from and may rescind or affirm the order or make a new order in substitution therefor and the order of the Director shall stand in place of and have the like effect under this Act as the order of the inspector. Idem

(8) Where an elevating device or part thereof is found, after its installation, to be unsafe or inherently defective, the Director may order such repairs as he considers necessary to be made within such time period as he specifies. 1980, c. 9, s. 10. Repairs to defective parts

11.—(1) No person shall commence a new installation or major alteration of an elevating device until a design submission therefor has been registered by the Director. Drawings and specifications to be registered

(2) Application for registration under subsection (1) shall be in accordance with the requirements prescribed by the regulations. Idem

(3) The Director may refuse to register a design submission where, Idem

(a) it does not comply with the requirements of this Act and the regulations;

(b) it is not sealed by a professional engineer; or

(c) it appears that it may result in an elevating device, the operation of which could pose a safety hazard to any person or property. 1980, c. 9, s. 11.

Compliance
with Act and
regulations
required

12. No person shall construct, install, alter, repair, maintain or test an elevating device or part thereof except in accordance with this Act and the regulations. 1980, c. 9, s. 12.

Contractor
to be
registered

13. No person shall act as a contractor unless he is registered as a contractor under this Act and no contractor who is registered under this Act shall offer or provide a service not authorized in his registration. 1980, c. 9, s. 13.

Contractor
to take
precautions

14. A contractor shall take every precaution reasonable in the circumstances to ensure that his employees comply with this Act and the regulations. 1980, c. 9, s. 14.

Operation
without
inspection
prohibited

15. No person shall put into service a newly installed elevating device or an elevating device to which a major alteration has been made until it has been inspected by an inspector and licensed in accordance with this Act and the regulations. 1980, c. 9, s. 13.

Operation
of unsafe
device
prohibited

16.—(1) No person shall operate an elevating device or cause or permit it to be operated if he has reason to believe that it is in an unsafe condition.

Unsafe
operation
prohibited

(2) No person shall operate an elevating device or cause or permit it to be operated in an unsafe manner.

Excessive
loads
prohibited

(3) No person shall operate or use an elevating device or cause or permit it to be operated or used with a load in excess of its maximum capacity.

Exception
to
subss. (1-3)

(4) Subsections (1), (2) and (3) do not apply to an inspector, a person authorized by an inspector or a mechanic during the installation, alteration, repair, testing or inspection of an elevating device.

Sealed
device

(5) No owner shall use or permit the use of an elevating device to which a seal has been affixed under section 10 until authorized in writing by an inspector. 1980, c. 9, s. 16.

17.—(1) No person shall conduct himself in or on an elevating device or perform any work on an elevating device in such manner as to, Safe conduct

(a) impair the safe operation of the elevating device; or

(b) endanger himself, any other person or freight.

(2) No person shall remove, displace, interfere with or damage any device installed in or about an elevating device for its safe operation except, Removing, etc., safety devices prohibited

(a) a person making an inspection under this Act or the regulations; or

(b) a contractor for the purpose of making a test or repair. 1980, c. 9, s. 17.

18. No person shall provide an elevating device or any part thereof for use by another person under any rental, leasing or other arrangement if the elevating device or part thereof is in an unsafe condition or otherwise not in conformance with this Act and the regulations. 1980, c. 9, s. 18. Renting, etc., of elevating device

19. The owner of an elevating device shall not operate it and shall ensure that it is not operated unless, Licence and compliance required

(a) it is licensed; and

(b) it complies with this Act and the regulations. 1980, c. 9, s. 19.

20. Where the operation of an elevating device requires that an attendant or operator be present, the owner of the device shall ensure that the attendant or the operator, as the case may be, complies with the requirements of this Act and the regulations. 1980, c. 9, s. 20. Where attendant or operator required

21.—(1) Subject to subsection (2), the Director shall issue a licence for an elevating device or a renewal thereof to an applicant therefor, subject to such terms and conditions as are prescribed in the regulations and as are agreed to by the applicant or licensee. Licence for an elevating device

(2) Subject to section 23, the Director may refuse to grant or to renew a licence for an elevating device, or may suspend or revoke such a licence where, Where licence may be refused, revoked, etc.

(a) the elevating device or the operation thereof does not comply with this Act or the regulations; or

- (b) the holder of the licence has failed to comply with a notice or order of an inspector or is in contravention of this Act or the regulations. 1980, c. 9, s. 21.

Registration
of contractor

22.—(1) Subject to subsection (2), the Director shall register a contractor under this Act subject to such terms and conditions as are prescribed in the regulations.

Where
registration
may be
refused,
revoked, etc.

(2) The Director may refuse to register or to renew the registration of a contractor or may suspend or revoke the registration of a contractor where,

- (a) the applicant or registrant is in contravention of this Act, the regulations or a term or condition of his registration; or
- (b) there are reasonable grounds to believe that the applicant or registrant is incompetent or lacks basic resources or requisite skills.

Limited
registration

(3) Registration under subsection (1) may be limited to those classes of elevating devices that the Director considers the contractor to be qualified to service. 1980, c. 9, s. 22.

Notice of
proposal

23.—(1) Where the Director proposes,

- (a) to refuse to grant or to renew a licence or registration;
- (b) to suspend or revoke a licence or registration; or
- (c) to limit a registration,

under section 21 or 22, he shall serve notice of his proposal together with written reasons therefor, on the applicant, licence holder or registrant, as the case may be.

Idem

(2) A notice under subsection (1) shall inform the applicant, licence holder or registrant that he is entitled to a hearing by a judge of the county or district court for the county or district in which he resides if he applies to a judge thereof within fifteen days after the notice under subsection (1) is served on him and he may so apply for such a hearing.

Power of
Director
where no
hearing

(3) Where an applicant, licence holder or registrant does not apply to a judge for a hearing in accordance with subsection (2), the Director may refuse to grant a licence or registration, or may carry out the proposal stated in his notice under subsection (1).

Appointment
for hearing

(4) Where an applicant, licence holder or registrant applies to a judge for a hearing in accordance with subsection (2), the judge shall in writing appoint a time and place for and hold the hearing.

(5) Upon the application of the Director at the hearing, the judge may by order require the Director to grant the licence or registration, or permit him to carry out his proposal, or direct that such action as the judge considers proper be taken by the Director in accordance with this Act and the regulations and for such purposes the judge may substitute his opinion for that of the Director.

Powers of
judge where
hearing

(6) The Director may serve notice under subsection (1) personally or by registered mail addressed to the applicant, licence holder or registrant at his address last known to the Director and where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Service of
notice

(7) A judge to whom application is made by an applicant, licence holder or registrant for a hearing under this section may extend the time for making application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant, licence holder or registrant pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension.

Extension
of time for
application

(8) Where, within the time prescribed therefor, or if no time is prescribed, prior to the expiry of his licence or registration, a licence holder or registrant has applied for renewal of his licence or registration and paid the prescribed fee, his licence or registration shall be deemed to continue,

Continuation
pending
renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision. 1980, c. 9, s. 23.

24.—(1) The Director, the applicant, the licence holder or registrant who has applied for the hearing and such other persons as are specified by the judge are parties to the proceedings before a judge under section 23.

Parties

(2) Notice of a hearing under section 23 shall afford to the licence holder or registrant a reasonable opportunity to show or to

Opportunity
to achieve
compliance

achieve compliance before the hearing with all lawful requirements for the retention of the licence or registration.

Examination
of
documentary
evidence

(3) An applicant, licence holder or registrant who is a party to proceedings under section 23 shall be afforded an opportunity to examine, before the hearing, any written or documentary evidence that will be produced or any report, the contents of which will be given in evidence at the hearing.

Recording
evidence

(4) The oral evidence taken before a judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings
of fact

R.S.O. 1980,
c. 484

(5) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible on matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1980, c. 9, s. 24.

Appeal to
Divisional
Court

25.—(1) Any party to proceedings before a judge under section 23 may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Record to
be filed

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister
entitled to
be heard

(3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of
court on
appeal

(4) The Divisional Court may, on the appeal, affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations, and may order the Director to do any act or thing he is authorized to do under this Act and as the court considers proper, and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1980, c. 9, s. 25.

Interim
suspension
pending
final
appeal

26. The Director, by notice to the licence holder or registrant and without a hearing, may provisionally refuse to renew or suspend the holder's licence or registrant's registration where in the Director's opinion it is necessary to do so for the immediate protection of any person or the public and the Director so states in such notice giving his reasons therefor, and thereafter section 23 applies as if the notice given under this section were a notice of a

proposal to revoke the licence or registration under section 23. 1980, c. 9, s. 26.

27. An elevating device shall be inspected by an inspector at such intervals as may be determined by the Director. 1980, c. 9, s. 27. Inspections

28. A statement as to, Certificate
as evidence

(a) the registration or non-registration of any person; or

(b) the licensing or non-licensing of any elevating device,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1980, c. 9, s. 27.

29.—(1) Where an accident occurs in connection with an elevating device that results in the death of or serious injury to any person, the owner shall notify the Director by telephone forthwith. Reporting
accidents

(2) Where an accident occurs that causes injury to any person or where there has been an incident involving an elevating device that indicates that the elevating device is in a potentially hazardous condition or where there has been a fire involving an elevating device, the owner and the contractor maintaining the elevating device shall notify the Director by telephone within twenty-four hours and shall submit a written report giving full particulars within seven days thereafter. Idem

(3) Where an accident of the type referred to in subsection (1) occurs, no person, except for the purpose of rescuing a person injured in the accident, shall interfere with, disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the accident until permission to do so is given by an inspector. Wreckage
not to be
disturbed

(4) On being notified of an accident or incident in accordance with this section, the Director shall cause such investigation to be made as he considers necessary. 1980, c. 9, s. 29. Investigation

30.—(1) Every person who, Offence

(a) contravenes or fails to comply with any provision of this Act or the regulations;

- (b) knowingly makes a false statement in any document required by this Act or the regulations;
- (c) contravenes or fails to comply with a term or condition of a licence or registration;
- (d) contravenes or fails to comply with an order or requirement of an inspector,

is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(2) Where a person contravenes any of the provisions of this Act or the regulations or any notice or order made thereunder on more than one day, each such day shall be deemed to constitute a separate offence. 1980, c. 9, s. 30.

Regulations

31.—(1) The Lieutenant Governor in Council may make regulations respecting the construction, installation, operation, maintenance and inspection of elevating devices and, in particular and without limiting the generality of the foregoing, may make regulations,

- (a) designating classes or subclasses of elevating devices, parts thereof and equipment used in connection therewith;
- (b) regulating the use, location, design, construction, installation, operation, removing, alteration, repair, maintenance, service, testing and inspection or elevating devices, parts thereof and equipment used in conjunction therewith;
- (c) requiring and prescribing qualifications, training and experience for persons who are attendants, operators or mechanics, or who may perform any work on or in conjunction with, an elevating device or parts thereof, and prescribing their duties and responsibilities;
- (d) prescribing requirements as to the form and content of a design submission under this Act, the application for registration thereof and the fees to be paid upon submission;
- (e) governing the conduct of persons in or about elevating devices;

- (*f*) respecting the term, issue and renewal of licences and registrations, the transfer of licences and prescribing the fees therefor;
- (*g*) prescribing responsibilities and obligations of licensees or owners;
- (*h*) prescribing terms and conditions to which the registration of a contractor is subject;
- (*i*) designating organizations to test elevating devices or parts thereof to the standards designated under the regulations and providing for the placing of the label of such organization on elevating devices or parts thereof that conform to the standards;
- (*j*) prescribing forms, seals and tags and providing for their use;
- (*k*) providing for and requiring the keeping of records, log books, drawings, instructions and specifications on, and in conjunction with, the design, construction, installation, repair, maintenance, alteration and use of an elevating device or part thereof;
- (*l*) requiring and prescribing the form and location of notices and markings that are to be kept in or about elevating devices;
- (*m*) classifying inspections and prescribing the fees to be paid for inspections or witnessing tests by inspectors and prescribing by whom the fees shall be paid;
- (*n*) prescribing the fees to be paid for copies of any official document issued by the Ministry;
- (*o*) prescribing the circumstances under which expenses or special fees, or both, are to be paid and prescribing the special fees and designating the persons by whom such expenses or fees, or both, are to be paid;
- (*p*) exempting any person or any class of persons, and any elevating device or part thereof or any class or subclass of them, from compliance with this Act and the regulations or any of the provisions thereof.

(2) Any regulation may be made with respect to elevating devices or with respect to any one or more of such class of mechanism or with respect to any one or more subclasses thereof. ^{Idem}

Adoption of
codes by
reference

(3) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, and may require compliance with any code that is so adopted.

Definitions

(4) Any word or expression used in this Act or the regulations may be defined in the regulations for the purposes of the regulations.

Variance
by Director

(5) The Director may allow a variance from any code adopted under the regulations where, in his opinion, the variance would not detrimentally affect the safety of the elevating device.

Use of
new codes,
etc.

(6) The Director may authorize the use of a new code or standard or changes to established codes or standards necessary to accommodate technological advances for a limited time and subject to any terms and conditions specified. 1980, c. 9, s. 31.

CHAPTER 136

Employment Agencies Act

1. In this Act,

Interpre-
tation

(a) "employment agency" means the business of procuring for a fee, reward or other remuneration,

(i) persons for employment, or

(ii) employment for persons,

and includes the business of counselling or testing persons for a fee, reward or other remuneration to assist them in securing employment;

(b) "licence" means a licence under this Act;

(c) "regulations" means the regulations made under this Act;

(d) "supervisor" means the supervisor of employment agencies. R.S.O. 1970, c. 146, s. 1.

2. No person shall carry on an employment agency unless licensed so to do by the supervisor. R.S.O. 1970, c. 146, s. 2.

Licence
required

3.—(1) Subject to section 6, an applicant for a licence to carry on a class of employment agency who,

Licence,
issue

(a) applies in the prescribed form;

(b) pays the prescribed fee;

(c) furnishes such security as is prescribed by the regulations; and

(d) complies with the qualifications prescribed by the regulations,

is entitled to be issued such licence by the supervisor.

(2) Subject to section 7, a licensee who applies for a renewal of his licence in accordance with this Act and the regulations and pays the prescribed fee is entitled to renewal of his licence by the supervisor. 1971, c. 50, s. 36 (1).

Renewal

Term of
licence

4. A licence expires on the 31st day of March next following its date of issue, unless it is sooner suspended or revoked. R.S.O. 1970, c. 146, s. 4.

Branches,
etc.

5. Where an employment agency is carried on in or from more than one place of business, a separate licence shall be obtained in respect of each place of business. R.S.O. 1970, c. 146, s. 5.

Refusal
to issue
licence

6. Subject to section 8, the supervisor may refuse to issue a licence to an applicant who otherwise has complied with the requirements of section 3 if in his opinion,

- (a) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on the employment agency in accordance with law and with honesty and integrity; or
- (b) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the carrying on of the employment agency; or
- (c) where the applicant is a corporation,
 - (i) the past conduct of its officers or directors affords reasonable grounds for belief that the employment agency will not be carried on by it in accordance with law or with honesty and integrity, or
 - (ii) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the carrying on of the employment agency. 1971, c. 50, s. 36 (2), *part.*

Suspension,
revocation,
etc.

7. Subject to section 8, the supervisor may refuse to renew or may suspend or revoke a licence if in his opinion,

- (a) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has knowingly permitted any person under his control or direction or associated with him in the carrying on of the employment agency carried on pursuant to the licence to contravene any provision of this Act or of the regulations or of any other Act or regulations applying to the carrying on of the employment agency and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or

- (b) the licence would be refused under section 6 if the licensee were making application for it in the first instance. 1971, c. 50, s. 36 (2), *part.*

8.—(1) Where the supervisor proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee informing him that he has a right to a hearing by a judge of the county or district court of the county or district in which he intended to carry on or carried on his employment agency under the licence if he applies to the judge within fifteen days after service of the notice by the supervisor, and the applicant or licensee may within such time apply to the judge for a hearing.

Notice of
proposal to
refuse or
revoke

(2) Where an applicant or licensee does not apply for a hearing in accordance with subsection (1), the supervisor may carry out the proposal stated in his notice under subsection (1).

Powers of
supervisor
where no
hearing

(3) Where an applicant or licensee applies to a judge for a hearing in accordance with subsection (1), the judge shall appoint a time for and hold the hearing and, on the application of the supervisor at the hearing, may by order direct the supervisor to carry out his proposal or refrain from carrying out his proposal and to take such action as the judge considers the supervisor ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the supervisor.

Powers of
judge where
hearing

(4) The supervisor may serve notice under subsection (1) personally or by registered mail addressed to the applicant or licensee at his address last known to the supervisor and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Service of
notice

(5) A judge to whom application is made by an applicant or licensee for a hearing under subsection (1) may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

Extension of
time for
hearing

Continuation
of licences
pending
renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the supervisor proposes to refuse to grant the renewal, until the time for applying to a judge for a hearing expires and, where a hearing is applied for, until the judge has made his order. 1971, c. 50, s. 36 (2), *part*.

Parties

9.—(1) The supervisor, the applicant or licensee who has applied for the hearing and such other persons as the judge may specify are parties to the proceedings before a judge under section 8.

When notice
to be given

(2) Notice of a hearing under section 8 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination
of
documentary
evidence

(3) An applicant or licensee who is a party to proceedings under section 8 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording
of evidence

(4) The oral evidence taken before the judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the county court.

Findings
of fact

R.S.O. 1980,
c. 484

(5) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 36 (2), *part*.

Appeal from
order of
judge

10.—(1) Any party to proceedings before a judge may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Record
to be filed
in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file with the Registrar of the Supreme Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

(3) The Minister of Labour is entitled to be heard, by ^{Representations by} counsel or otherwise, upon the argument of an appeal under ^{Minister} this section.

(4) The Divisional Court may, on the appeal, exercise the ^{Decision} powers of the judge appealed from and for such purpose the court may substitute its opinion for that of the supervisor or of the judge or the court may refer the matter back to the judge for a hearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 36 (2), *part*.

11. Notwithstanding section 8, the supervisor, by notice ^{Provisional order of supervisor} to a licensee, and without a hearing, may provisionally re-fuse renewal of or suspend the licensee's licence where the carrying on of the employment agency under the licence is, in the supervisor's opinion, an immediate threat to the interests of persons dealing with the agency or to the public interest and the supervisor so states in the notice giving his reasons therefor, and thereafter sections 8, 9 and 10 apply as if the notice given under this section were a notice of a proposal to revoke the licence served under subsection 8 (1). 1971, c. 50, s. 36 (2), *part*.

12. A licensee shall display his licence in a conspicuous place ^{Display of licence} in the premises in which he carries on business. R.S.O. 1970, c. 146, s. 7.

13. Every person who contravenes any provision of this Act or ^{Offence} the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$500. R.S.O. 1970, c. 146, s. 8.

14. The Lieutenant Governor in Council may make regula- ^{Regulations} tions,

- (a) prescribing the qualifications of applicants for licences;
- (b) classifying employment agencies;
- (c) prescribing the nature and amount of the security to be furnished by employment agencies or any class thereof;
- (d) limiting and prescribing the nature of the business that shall be carried on by employment agencies or any class thereof;
- (e) regulating and controlling the manner in which the business of employment agencies or any class thereof shall be carried on;

- (*f*) prescribing the records, books and accounts that shall be kept by employment agencies or any class thereof;
- (*g*) prescribing the fee, reward or other remuneration that may be charged by employment agencies or any class thereof for their services;
- (*h*) requiring, providing for and prescribing the annual or other returns that shall be made to the supervisor by employment agencies or any class thereof;
- (*i*) fixing the fees to be paid for licences for employment agencies or any class thereof;
- (*j*) providing for the inspection of employment agencies or any class thereof;
- (*k*) prescribing forms and providing for their use. R.S.O. 1970, c. 146, s. 9; 1971, c. 50, s. 36 (3).

CHAPTER 137

Employment Standards Act

INTERPRETATION

1. In this Act,

Interpre-
tation

(a) “Deputy Minister” means the Deputy Minister of Labour;

(b) “Director” means the person appointed by the Minister as Director of Employment Standards for the purposes of this Act;

(c) “employee” includes a person who,

(i) performs any work for or supplies any services to an employer for wages,

(ii) does homework for an employer, or

(iii) receives any instruction or training in the activity, business, work, trade, occupation or profession of the employer,

and includes a person who was an employee;

(d) “employer” includes any person who as the owner, proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control or direction of, or is directly or indirectly responsible for, the employment of a person therein, and includes a person who was an employer;

(e) “employment standard” means a requirement imposed upon an employer in favour of an employee by this Act or the regulations;

(f) “employment standards officer” means a person appointed for the purposes of this Act, and includes the Director;

- (g) "homework" means the doing of any work in the manufacture, preparation, improvement, repair, alteration, assembly or completion of any article or thing or any part thereof in premises occupied primarily as living accommodation, and "home-worker" has a corresponding meaning;
- (h) "Minister" means the Minister of Labour;
- (i) "Ministry" means the Ministry of Labour;
- (j) "overtime rate" means the hourly rate of pay that an employee is entitled to receive for hours of work in excess of,
 - (i) the hours of work in a week prescribed in section 25 or the regulations, or
 - (ii) the regular hours of work in a day or a week under a contract of employment that under subsection 4 (2) prevails over the provisions of section 25,and "overtime pay" has a corresponding meaning;
- (k) "premium rate" means the rate of pay to which an employee is entitled for each hour of employment on a public holiday, or a day that is deemed to be a public holiday, and "premium pay" has a corresponding meaning;
- (l) "public holiday" means New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day;
- (m) "regular rate" means,
 - (i) the wage rate of an employee for an hour of work in a regular non-overtime work week,
 - (ii) where subclause (i) does not apply, the average hourly rate calculated by dividing the wages of an employee earned in a week by the number of hours the employee worked in that week where the employer has made and kept in accordance with this Act complete and accurate records thereof, or

- (iii) where subclauses (i) and (ii) do not apply, the hourly rate determined by an employment standards officer;
- (n) “regulations” means the regulations made under this Act;
- (o) “termination pay” means the amount of pay to which an employee is entitled under section 40;
- (p) “wages” means any monetary remuneration payable by an employer to an employee under the terms of a contract of employment, oral or written, express or implied, any payment to be made by an employer to an employee under this Act, and any allowances for room or board as prescribed in the regulations or under an agreement or arrangement therefor but does not include,
 - (i) tips and other gratuities,
 - (ii) any sums paid as gifts or bonuses that are dependent on the discretion of the employer and are not related to hours, production or efficiency,
 - (iii) travelling allowances or expenses,
 - (iv) contributions made by an employer to a fund, plan or arrangement to which Part X of this Act applies;
- (q) “week” means a period of seven consecutive days;
- (r) “work week” means a week of work established by the practice of the employer or determined by an employment standards officer. 1974, c. 112, s. 1.

PART I

GENERAL APPLICATION

2.—(1) Parts IX, X, XI and XII apply to the Crown, ^{Application of Act} every agency thereof and any board, commission, authority or corporation that exercises any functions assigned or delegated to it by the Crown.

Idem

(2) This Act applies to every contract of employment, oral or written, express or implied,

(a) where the employment is for work or services to be performed in Ontario; or

(b) where the employment is for work or services to be performed both in and out of Ontario and the work or services out of Ontario are a continuation of the work or services in Ontario.

Non-application
of
R.S.O. 1980,
c. 484

(3) Part I of the *Statutory Powers Procedure Act* does not apply to the exercise of any power conferred by section 5, 12, 16, 18, 20, 24, subsection 25 (3) or section 30, 32, subsection 33 (4) or section 39, 47 or 49 of this Act. 1974, c. 112, s. 2.

Waiver, etc.,
to be null
and void

3. Subject to section 4, no employer, employee, employers' organization or employees' organization shall contract out of or waive an employment standard, and any such contracting out or waiver is null and void. 1974, c. 112, s. 3.

Employment
standard
deemed
minimum

4.—(1) An employment standard shall be deemed a minimum requirement only.

Greater
benefit to
prevail

(2) A right, benefit, term or condition of employment under a contract, oral or written, express or implied, or under any other Act or any schedule, order or regulation made thereunder that provides in favour of an employee a higher remuneration in money, a greater right or benefit or lesser hours of work than the requirement imposed by an employment standard shall prevail over an employment standard. 1974, c. 112, s. 4.

Provisions of
collective
agreements
R.S.O. 1980,
c. 228

5.—(1) Where terms or conditions of employment in a collective agreement as defined in the *Labour Relations Act* confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail.

Terms and
conditions
that are not
in collective
agreements

(2) Where the Director finds that terms or conditions of employment in a contract of employment oral or written, express or implied, that are not in a collective agreement confer a higher remuneration in money or a greater right or benefit for an employee respecting holidays than the provisions of Part VII, the terms or conditions of employment shall prevail. 1974, c. 112, s. 5.

Civil remedy
not suspended
or affected

6. No civil remedy of an employee against his employer is suspended or affected by this Act. 1974, c. 112, s. 6.

PART II

GENERAL PROVISIONS

7.—(1) An employer shall pay to an employee all wages to which an employee is entitled under, Payment of wages

(a) an employment standard; or

(b) a right, benefit, term or condition of employment under a contract of employment, oral or written, express or implied, that prevails over an employment standard,

in cash or by cheque.

(2) All wages shall be paid at the work place of the employee, or at a place agreed upon by the employer and the employee. Place of payment of wages

(3) All wages due and owing to an employee shall be paid by an employer on the regular pay day of the employee as established by the practice of the employer. Time of payment of wages

(4) Any payment to which an employee is entitled upon termination of employment shall be paid by the employer to the employee not later than seven days after termination of employment. 1974, c. 112, s. 7. Payment on termination

8. Except as permitted by the regulations, no employer shall claim a set-off against wages, make a claim against wages for liquidated or unliquidated damages or retain, cause to be returned to himself, or accept, directly or indirectly, any wages payable to an employee. 1974, c. 112, s. 8. No set-off, etc., to be claimed against wages

9. No employer shall dismiss or suspend an employee on the ground that garnishment proceedings are or may be taken against the employee or that an attachment order under section 30 of the *Family Law Reform Act* has been or may be made against the employee. 1978, c. 2, s. 77. Garnishment or attachment of wages
R.S.O. 1980, c. 152

10.—(1) An employer shall furnish to an employee at the time wages are paid to the employee a statement in writing, which can be retained by the employee, setting forth, Statement of wages

(a) the period of time or the work for which the wages are being paid;

(b) the rate of wages to which the employee is entitled unless such information is furnished to the employee in some other manner;

- (c) the amount of the wages to which the employee is entitled;
- (d) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made;
- (e) any living allowance or other payment to which the employee is entitled; and
- (f) the net amount of money being paid to the employee.

Statement
of vacation
pay

(2) Unless the information is given to an employee in some other manner, an employer shall furnish to an employee at the time vacation pay is paid to the employee a statement in writing which can be retained by the employee setting forth,

- (a) the period of time or the work for which the vacation pay is being paid;
- (b) the amount of the wages upon which the vacation pay is being paid;
- (c) the amount of each deduction from the vacation pay and its purpose; and
- (d) the net amount of vacation pay being paid to the employee. 1974, c. 112, s. 10.

Records

11.—(1) An employer shall,

- (a) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of twenty-four months after work is performed or services are supplied by an employee complete and accurate records in respect of the employee showing,
 - (i) the employee's name and address,
 - (ii) the employee's date of birth, if the employee is a student under eighteen years of age,
 - (iii) the number of hours worked by the employee in each day and week,
 - (iv) the employee's wage rate and gross earnings,

- (v) the amount of each deduction from the wages of the employee and the purpose for which each deduction is made,
 - (vi) any living allowance or other payment to which the employee is entitled,
 - (vii) the net amount of money being paid to the employee, and
 - (viii) any documents or certificates relating to pregnancy leave under Part XI; and
- (b) make and keep in Ontario or in a place out of Ontario authorized by the Director for a period of five years after work is performed by an employee complete and accurate records in respect of the employee showing,
- (i) the employee's name and address,
 - (ii) the date of commencement of employment and the anniversary date thereof, and
 - (iii) the employee's wages during each pay period and the vacations with pay or payment under section 31.

(2) Subclause (1) (a) (iii) does not apply in respect of the salaried Exception employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty-four hours a week. 1974, c. 112, s. 11.

12.—(1) Where before or after this Act comes into force Related activities, etc., may be treated as one employer associated or related activities, businesses, trades or undertakings are or were carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, and a person is or was an employee of such corporations, individuals, firms, syndicates or associations, or any combination thereof, an employment standards officer may treat the corporations, individuals, firms, syndicates or associations as one employer for the purposes of this Act.

Individual
liability

(2) The corporations, individuals, firms, syndicates or associations treated as one employer shall be individually liable for any contravention of this Act and the regulations. 1974, c. 112, s. 12.

Interpre-
tation

13.—(1) In this section,

(a) “business” includes an activity, trade or undertaking, or a part or parts thereof;

(b) “sells” includes leases, transfers or any other manner of disposition and “sale” has a corresponding meaning.

Continuity of
employment

(2) Where an employer sells his business to a purchaser who employs an employee of the employer, the employment of the employee shall not be terminated by the sale, and the period of employment of the employee with the employer shall be deemed to have been employment with the purchaser for the purposes of Parts VII, VIII, XI and XII.

Part XII
to be
complied
with

(3) Where an employer sells his business to a purchaser who does not employ an employee of the employer, the employer shall comply with Part XII. 1974, c. 112, s. 13.

Priority
of claims

R.S.C. 1970,
c. B-4

14. Notwithstanding the provisions of any other Act and except upon a distribution made by a trustee under the *Bankruptcy Act* (Canada), wages shall have priority to the claims or rights and be paid in priority to the claims or rights, including the claims or rights of the Crown, of all preferred, ordinary or general creditors of the employer to the extent of \$2,000 for each employee. 1974, c. 112, s. 14.

Vacation pay
deemed to
be held in
trust

15. Every employer shall be deemed to hold vacation pay accruing due to an employee in trust for the employee whether or not the amount therefor has in fact been kept separate and apart by the employer and the vacation pay becomes a lien and charge upon the assets of the employer that in the ordinary course of business would be entered in books of account whether so entered or not. 1974, c. 112, s. 15.

PART III

HOMEWORKERS

Application
for permit

16.—(1) An application for a permit to employ homeworkers shall be made by the employer to the Director.

(2) No person shall employ a homeworker without a permit therefor issued by the Director.

(3) The Director may,

(a) issue a permit on such terms and conditions as he considers advisable;

Terms,
conditions,
revocation
and
suspension
of permit

(b) revoke or suspend a permit for a breach of a term or condition thereof, or where the holder is liable for a nuisance within the meaning of the *Public Health Act*, or for a contravention of any Act.

R.S.O. 1980,
c. 409

(4) Every employer shall keep a register and enter therein the name and address of every homeworker to whom the employer gives homework, and the wages paid therefor. 1974, c. 112, s. 16.

Register of
homeworkers

PART IV

HOURS OF WORK

17. Except as otherwise provided in this Part, and subject to any schedule in force under the *Industrial Standards Act*, the hours of work of an employee shall not exceed eight in the day and forty-eight in the week. 1974, c. 112, s. 17.

Maximum
working
hours

R.S.O. 1980,
c. 216

18. An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty-eight hours in a week. 1974, c. 112, s. 18.

Variation
of working
day

19. In case of an accident or in case of work urgently required to be done to machinery or plant, the employer may require the limit of hours of work prescribed by section 17 or approved under section 18 to be exceeded but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment. 1974, c. 112, s. 19.

Exceeding
maximum
in case of
accident

20.—(1) The Director may issue a permit authorizing hours of work in excess of those prescribed by section 17 or approved under section 18, but the excess hours of work shall not exceed,

Permits
for excess
hours

- (a) in the case of an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman or other person who, in the opinion of the Director, is engaged in a similar occupation, twelve hours in each week for each employee; and
- (b) in the case of all other employees, 100 hours in each year for each employee.

Idem

(2) Where the Director is satisfied that the work or the perishable nature of raw material being processed requires hours of work in excess of those permitted under subsection (1), he may issue a permit therefor.

Permit
does not
obligate
employee

(3) The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty-eight in the week.

Terms and
conditions
of permit

(4) A permit issued under this section shall contain such terms, conditions and limitations as the Director prescribes. 1974, c. 112, s. 20.

Agreements
subject to
maximums

21. Except as otherwise provided in this Part, no employer may require or permit work, and no employee may work or agree to work, any hours that exceed the maximum hours established under this Act. 1974, c. 112, s. 21.

Eating
periods

22. Every employer shall provide eating periods of at least one-half hour, or such shorter period as is approved by the Director, at such intervals as will result in no employee working longer than five consecutive hours without an eating period. 1974, c. 112, s. 22.

PART V

MINIMUM WAGES

Statutory
agreement
for minimum
wage

23. Every employer who permits any employee to perform work or supply any services in respect of which a minimum wage is established shall be deemed to have agreed to pay to the employee at least the minimum wage established under this Act. 1974, c. 112, s. 23.

24. For the purpose of enabling a handicapped person to be gainfully employed, the Director may, upon the application of the handicapped person or his employer and with the consent of the handicapped person, his parent or guardian, authorize the employment of such handicapped person to perform such work as is authorized at a wage lower than the minimum wage prescribed under this Act. 1974, c. 112, s. 24. Handicapped employees

PART VI

OVERTIME PAY

25.—(1) Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty-four hours in any week, he shall be paid for each hour worked in excess of forty-four hours overtime pay at an amount not less than one and one-half times the regular rate of the employee. Overtime pay

(2) In complying with subsection (1), no employer shall reduce the regular rate of wages payable to an employee. Idem

(3) Where an employer has not made and kept complete and accurate records in respect of an employee pursuant to clause 11 (1) (a), an employment standards officer may determine the regular rate of and the number of hours worked by the employee in each day and week. 1974, c. 112, s. 25. Employment standards officer may determine regular rate

PART VII

PUBLIC HOLIDAYS

26.—(1) This section does not apply to an employee who, Application

- (a) is employed for less than three months;
- (b) has not earned wages on at least twelve days during the four work weeks immediately preceding a public holiday;
- (c) fails to work his scheduled regular day of work preceding or his scheduled regular day of work following a public holiday;

(d) has agreed to work on a public holiday and who, without reasonable cause, fails to report for and perform the work; or

(e) is employed under an arrangement whereby the employee may elect to work or not when requested so to do.

Holiday
with pay

(2) Subject to subsections (3), (4) and (5), an employer shall give to an employee a holiday on and pay to the employee his regular wages for each public holiday.

Working day
substituted
for holiday

(3) Where a public holiday falls upon a working day for an employee, an employer may with the agreement of the employee or his agent substitute another working day for the public holiday which day shall not be later than the next annual vacation of the employee, and the day so substituted shall be deemed to be the public holiday.

Holiday
that is a
non-working
day

(4) Where a public holiday falls on a non-working day for an employee or in his vacation an employer shall,

(a) with the agreement of the employee or his agent pay the employee his regular wages for the public holiday; or

(b) designate a working day that is not later than the next annual vacation of the employee and the day so designated shall be deemed to be the public holiday.

Holiday
pay

(5) Notwithstanding subsection (3), where an employee is employed in a hotel, motel, tourist resort, restaurant, tavern, continuous operation or a hospital, and the employee is required to work and works on a public holiday, the employer shall,

(a) pay the employee in accordance with subsection 27 (1); or

(b) pay the employee for each hour worked on a public holiday an amount not less than his regular wages and give to the employee a holiday on his first working day immediately following his next annual vacation or on a working day agreed upon and pay him his regular wages for that day.

Interpre-
tation

(6) For the purposes of subsection (5),

(a) "continuous operation" means that part of an establishment, industry or service in which in each seven day period operations once commenced

normally continue day and night without cessation until the completion of the regularly scheduled operations for that period;

- (b) "hospital" means a hospital as defined in the *Hospital Labour Disputes Arbitration Act*. 1974, c. 112, s. 26. R.S.O. 1980, c. 205

27.—(1) Subject to subsection 26 (5), where an employee works on a public holiday, the employer shall pay to the employee for each hour worked a premium rate of not less than one and one-half times his regular rate and, where the employee is entitled to the holiday with pay, his regular wages in addition thereto. Premium rate for holiday

(2) Where an employee works on a public holiday, the hours the employee works on the public holiday shall not be taken into consideration in calculating any overtime pay to which the employee is entitled for the work week in which the public holiday occurs. 1974, c. 112, s. 27. Work on holiday not overtime

28. Where the employment of an employee ceases before the day that is substituted, designated or given for the public holiday under subsection 26 (3), clause 26 (4) (b), or clause 26 (5) (b), the employer shall pay to the employee in addition to any other payment to which the employee is entitled upon the ceasing of employment his regular wages for that day. 1974, c. 112, s. 28. Payment for holiday where employment ceases

PART VIII

VACATION WITH PAY

29.—(1) Every employer shall give to each employee a vacation with pay of at least two weeks upon the completion of each twelve months of employment. Vacations

(2) The amount of pay for such vacation shall be not less than an amount equal to 4 per cent of the wages of the employee in the twelve months of employment for which the vacation is given and in calculating wages no account shall be taken of any vacation pay previously paid. 1974, c. 112, s. 29. Idem

30.—(1) The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given. When vacation to be taken

Director
may require
employer
to pay

(2) Notwithstanding subsection (1) of this section and subsection 7 (3), the Director may require an employer to pay to an employee at any time the vacation pay to which the employee is entitled under section 29.

Idem

(3) Subsection (2) applies notwithstanding that there is a strike or lock-out as a result of a labour dispute. 1974, c. 112, s. 30.

Vacation
pay

31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid. 1974, c. 112, s. 31.

Agreements
respecting
vacation or
vacation
pay

32. Any agreement between an employer and an employee or employees or his or their agent respecting the method of providing funds for paying vacation pay, or payment in lieu of vacation, or of any arrangements for the taking of vacation, is subject to the approval of the Director. 1974, c. 112, s. 32.

PART IX

EQUAL PAY FOR EQUAL WORK

Equal pay
for equal
work

33.—(1) No employer or person acting on behalf of an employer shall differentiate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or *vice versa*, for substantially the same kind of work performed in the same establishment, the performance of which requires substantially the same skill, effort and responsibility and which is performed under similar working conditions, except where such payment is made pursuant to,

- (a) a seniority system;
- (b) a merit system;
- (c) a system that measures earnings by quantity or quality of production; or
- (d) a differential based on any factor other than sex.

Pay not to
be reduced

(2) No employer shall reduce the rate of pay of an employee in order to comply with subsection (1).

(3) No organization of employers or employees or its agents shall cause or attempt to cause an employer to agree to or to pay to his employees rates of pay that are in contravention of subsection (1).

Employer not to be requested to contravene subs. (1)

(4) Where an employment standards officer finds that an employer has failed to comply with subsection (1), the employment standards officer may determine the amount of moneys owing to an employee because of such non-compliance, and such amount shall be deemed to be unpaid wages. 1974, c. 112, s. 33.

Determination by employment standards officer

PART X

BENEFIT PLANS

34.—(1) This Part applies to a fund, plan or arrangement provided, furnished or offered or to be provided, furnished or offered by an employer to his employees,

Application

(a) under a term or condition of employment; or

(b) in which an employee may elect to participate or not and to which the employer contributes or does not contribute,

that directly or indirectly provides benefits to his employees, their beneficiaries, survivors or dependants, whether payable periodically or not, for superannuation, retirement, unemployment, income replacement, death, disability, sickness, accident, or medical, hospital, nursing or dental expenses, or other similar benefits or benefits under a deferred profit sharing plan in which employees participate in profits of the employer where the profits accumulated under the plan are permitted to be withdrawn or distributed upon death or retirement or upon contingencies other than death or retirement.

(2) Except as provided in the regulations, no employer or person acting directly on behalf of an employer shall provide, furnish or offer any fund, plan, arrangement or benefit that differentiates or makes any distinction, exclusion or preference between his employees or a class or classes of his employees or their beneficiaries, survivors or dependants because of the age, sex or marital status of his employees.

No differentiation because of age, etc.

(3) No organization of employers or employees, or person acting directly on behalf of an organization of employers or employees, shall cause or attempt to cause an employer, directly or indirectly, to act contrary to subsection (2).

Employer not to be requested to contravene subs. (2)

Powers of
Director

(4) Where, in the opinion of the Director, an employer, an organization of employers or employees or a person acting directly on behalf of an employer or such organization may have acted contrary to subsection (2), the Director may exercise the power conferred by subsection 51 (1), and section 51 applies with necessary modifications.

Regulations

(5) In addition to the powers conferred by section 65, the Lieutenant Governor in Council may make regulations respecting any matter or thing necessary or advisable to carry out the intent and purpose of this Part, and without restricting the generality of the foregoing, may make regulations,

- (a) exempting any fund, plan or arrangement or part thereof, heretofore or hereafter in existence, or any benefits thereunder from the application of this Part or any provision thereof;
- (b) permitting a fund, plan or arrangement to provide, furnish or offer a benefit or benefits that differentiate or make a distinction, exclusion or preference between employees or a class thereof or their beneficiaries, survivors or dependants;
- (c) suspending the application of this Part or any provision thereof to any fund, plan or arrangement or any benefits thereunder, whether provided, furnished or offered under a collective agreement or not, for such period or periods of time as may be prescribed;
- (d) providing that an employer may not reduce any benefits to an employee or class of employees under any fund, plan or arrangement provided, furnished or offered in order that the employer may comply with subsection (2);
- (e) providing the terms or conditions under which an employee may be entitled or disentitled to a benefit under a fund, plan or arrangement;
- (f) defining any expression used in this Part, or in the regulations under this Part. 1974, c. 112, s. 34.

PART XI

PREGNANCY LEAVE

35. No employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under section 36, but the employer may require the employee to commence a leave of absence pursuant to section 36 at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of her work is materially affected by the pregnancy. 1974, c. 112, s. 35.

36.—(1) An employee who is pregnant and who has been employed by her employer for a period of at least twelve months and eleven weeks immediately preceding the estimated day of her delivery, whether such employment commenced before or after the coming into force of this Act, shall be entitled upon her application therefor to a leave of absence of at least seventeen weeks from her employment or such shorter leave of absence as the employee may request commencing during the period of eleven weeks immediately preceding the estimated day of her delivery.

(2) Notwithstanding subsection (1) and subject to subsection (5), where the actual date of her delivery is later than the estimated day of her delivery, the leave of absence shall not end before the expiration of six weeks following the actual date of her delivery.

(3) The employee shall give her employer two weeks notice in writing of the day upon which she intends to commence her leave of absence and furnish her employer with the certificate of a legally qualified medical practitioner stating that she is pregnant and giving the estimated day upon which delivery will occur in his opinion.

(4) Subject to subsection (5), an employee may, with the consent of her employer, shorten the duration of the leave of absence requested under subsection (1).

(5) An employee may shorten the duration of the six week period mentioned in subsection (2) upon giving her employer one week's notice of her intention so to do and furnishing her employer with the certificate of a legally qualified medical practitioner stating that she is able to resume her work. 1974, c. 112, s. 36.

Leave
where
employee
ceases work

37. An employee who does not apply for leave of absence under section 36, and who is otherwise entitled to pregnancy leave thereunder, shall be entitled to and shall be granted leave of absence in accordance with section 36 upon providing her employer before the expiry of two weeks after she ceased to work with a certificate of a legally qualified medical practitioner stating that she was not able to perform the duties of her employment because of a medical condition arising from her pregnancy, and giving the estimated day upon which, in his opinion, delivery will occur or the actual date of her delivery. 1974, c. 112, s. 37.

Reinstatement and
preservation
of seniority

38.—(1) An employee who intends to resume her employment on the expiration of a leave of absence granted to her under this Part shall so advise her employer and on her return to work her employer shall reinstate the employee to her position or provide her with alternative work of a comparable nature at not less than her wages at the time her leave of absence began and without loss of seniority or benefits accrued to the commencement of her leave of absence.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time her leave of absence began with no loss of seniority or benefits accrued to the commencement of her leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection (1). 1974, c. 112, s. 38.

Employment
standards
officer may
make order

39. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director in trust for the employee. 1974, c. 112, s. 39.

PART XII

TERMINATION OF EMPLOYMENT

Notice of
termination

40.—(1) No employer shall terminate the employment of an employee who has been employed for three months or more unless he gives,

- (a) one week's notice in writing to the employee if his period of employment is less than two years;

- (b) two weeks notice in writing to the employee if his period of employment is two years or more but less than five years;
- (c) four weeks notice in writing to the employee if his period of employment is five years or more but less than ten years; and
- (d) eight weeks notice in writing to the employee if his period of employment is ten years or more,

and such notice has expired.

(2) Notwithstanding subsection (1), the notice required ^{Idem} by an employer to terminate the employment of fifty or more employees in any period of four weeks or less shall be given in the manner and for the period prescribed in the regulations, and until the expiry of such notice the termination shall not take effect.

(3) Subsections (1) and (2) do not apply to,

Exceptions

- (a) an employee employed for a definite term or task;
- (b) an employee who is temporarily laid off, as defined in the regulations;
- (c) an employee who has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer;
- (d) a contract of employment that is or has become impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance; or
- (e) an employee employed in an activity, business, work, trade, occupation or profession, or any part thereof, that is exempted by the regulations.

(4) Notwithstanding clause (3) (d), subsections (1) and (2) apply ^{Application of subss. (1), (2)} to an employee whose contract of employment is or has become impossible of performance or frustrated by an order, direction or notice made, given or issued against an employer under the *Environmental Protection Act*.

Employer to
co-operate
with Minister

(5) Where an employer is required to give the notice referred to in subsection (2) he shall co-operate with the Minister during the period of the notice in any action or program intended to facilitate the re-establishment in employment of the employees whose employment is to be terminated.

Rate of
wages, etc.,
not to be
altered

(6) Where the notice referred to in subsection (1) or (2) has been given,

- (a) no employer shall alter the rates of wages or any other term or condition of employment of any employee to whom notice has been given;
- (b) an employer shall pay to the employee during the period of notice the wages the employee is entitled to receive which in no case shall be less than his regular wages for a regular non-overtime work week; and
- (c) upon the expiry of the notice, the employer shall pay to the employee any wages or vacation pay to which he is entitled.

Where
employment
terminated
contrary
to section

(7) Where the employment of an employee is terminated contrary to this section, the employer shall pay the employee termination pay of an amount equal to the wages that the employee would have been entitled to receive at his regular rate for a regular non-overtime work week for the period of notice prescribed by subsection (1) or (2), and any wages to which he is entitled.

Notice by
employee

(8) An employee to whom notice has been given under subsection (2) shall not terminate his employment until after the expiry of,

- (a) one week's notice in writing to the employer if the period of employment is less than two years; or
- (b) two weeks notice in writing to the employer if the period of employment is two years or more,

unless his employer has been guilty of a breach of the terms and conditions of employment. 1974, c. 112, s. 40.

PART XIII

ADMINISTRATION

41.—(1) The Minister is responsible for the administration of this Act.

Minister
responsible
for adminis-
tration

(2) The Minister shall appoint a person to be the Director of Employment Standards for the purposes of the general administration of this Act and the regulations including the supervision and direction of employment standards officers.

Director
to be
appointed

(3) Such persons as are considered necessary to enforce this Act and the regulations may be appointed as employment standards officers under the *Public Service Act*.

Appointment
of
employment
standards
officers
R.S.O. 1980,
c. 418

(4) Where the Director is absent or unable to act or where the office is vacant, the powers and duties of the Director shall be exercised and performed by an employee of the Ministry designated by the Minister. 1974, c. 112, s. 41.

Acting
Director

42.—(1) The Minister shall appoint during his pleasure such persons to a panel of referees as he considers necessary for the purposes of this Act.

Appointment
of referees

(2) A referee shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. 1974, c. 112, s. 42.

Remunera-
tion

43.—(1) The Director may exercise the powers conferred and shall perform the duties imposed upon him under this Act.

Powers and
duties of
Director

(2) The Director may authorize an employment standards officer orally or in writing to exercise a power conferred upon the Director under this Act.

Authority
to exercise
power

(3) An employment standards officer may exercise the powers conferred and shall perform the duties imposed upon him under this Act. 1974, c. 112, s. 43.

Powers and
duties of
employment
standards
officer

44.—(1) The Deputy Minister shall issue a certificate of appointment bearing his signature or a facsimile thereof to every employment standards officer.

Certificate
of
appointment

(2) Every employment standards officer, in the exercise of any of his powers or the performance of any of his duties under this Act, shall produce his certificate of appointment upon request. 1974, c. 112, s. 44.

Production
of
certificate

Powers of
employment
standards
officer

45.—(1) An employment standards officer may, for the purpose of ensuring that the provisions of this Act and the regulations are being complied with,

- (a) subject to subsection (2), enter in or upon the lands or premises of a person at any reasonable time or times without a warrant for the purpose of carrying out an inspection, audit or examination;
- (b) require the production for inspection, audit or examination of all books of account, documents, vouchers, payrolls, records, letters patent, by-laws, minutes of directors' meetings, or documents that are or may be relevant to the inspection, audit or examination;
- (c) upon giving a receipt therefor, remove any books, papers, records or documents examined under clause (b) for the purpose of making copies or extracts of such books, papers, documents, or things, but such copying shall be carried out with reasonable dispatch and the books, papers, records or documents shall be promptly returned thereafter to the person who produced or furnished them;
- (d) make any inquiries of any person separate or apart from another person that are or may be relevant to the inspection, audit or examination.

Entry into
dwelling

(2) No employment standards officer shall enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

Employment
standards
officer not
competent or
compellable
as witness

(3) No employment standards officer is a competent or compellable witness in a civil suit or proceeding respecting any information, material or statements acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act.

Production of
documents

(4) No employment standards officer shall be compelled or required to produce in a civil suit or proceeding any document, extract, report, material or statement acquired, furnished, obtained, made or received under the powers conferred under this Act except for the purposes of carrying out his duties under this Act. 1974, c. 112, s. 45.

46.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an employment standards officer in the exercise of a power or the performance of a duty under this Act. Obstruction

(2) Every person shall furnish all necessary means in his power to facilitate any entry, production, inspection, audit, examination or inquiry by an employment standards officer in the exercise of a power or the performance of a duty under this Act. Assistance to officer

(3) No person shall neglect or refuse to produce all books, ledgers, vouchers, payrolls, records, letters patent, minutes of directors' meetings, or documents that are or may be relevant to an inspection, audit or examination. 1974, c. 112, s. 46. Production of records

47.—(1) Where an employment standards officer finds that an employee is entitled to any wages from an employer, he may, Powers

- (a) arrange with the employer that the employer pay directly to the employee the wages to which the employee is entitled;
- (b) receive from the employer on behalf of the employee any wages to be paid to the employee as the result of a compromise or settlement; or
- (c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and such order shall provide in addition for payment by the employer to the Director of a penalty of 10 per cent of the wages or the sum of \$25, whichever is the greater, provided that the order shall not order the employer to pay a sum exceeding \$4,000 for an employee.

(2) Where an employment standards officer issues an order under subsection (1), the order shall contain or have attached thereto information indicating the nature of the amount to be paid to an employee. Contents of order

(3) An order issued under subsection (1) may order an employer to pay wages to one or more than one employee to which one or more than one employee is entitled for one or more than one failure to comply with a contract or more than one contract of employment or with this Act and the regulations. Idem

Delivery
or service
of order

(4) An order issued under subsection (1) shall be delivered to the employer by registered mail addressed to the employer at his or its last known place of business or served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer, director, manager or person in charge of any branch of the corporation.

Certificate
of service

(5) A certificate of the Director certifying that the order was served upon or sent by registered mail to the employer and accompanied by a true copy of the order is admissible as evidence of the issue, service, mailing and receipt of the order.

Compliance
with order

(6) Every employer to whom an order is issued under subsection (1) shall comply with it in accordance with its terms. 1974, c. 112, s. 47.

Payment to
Director in
trust

48.—(1) Where an employer has made an arrangement with an employment standards officer for the payment of wages to an employee under clause 47 (1) (a), or an employment standards officer has received wages from an employer for or on behalf of an employee under clause 47 (1) (b), and the employee cannot be conveniently located, the employer shall pay the wages to the Director in trust.

Wages to
be held
in trust

(2) Where wages have been received or collected for or on behalf of an employee by the Director in trust and the employee cannot be located, the wages shall be vested in and held in trust for Her Majesty and paid into the Consolidated Revenue Fund but may without interest thereon be paid out to the employee, his estate, or such other person as the Director considers is entitled thereto. 1974, c. 112, s. 48.

Order
may be
refused

49.—(1) Where, following a complaint in writing by an employee, an employment standards officer finds that an employer has paid the wages to which an employee is entitled under this Act he may refuse to issue an order to an employer and upon refusing to do so shall advise the employee of the refusal by prepaid letter addressed to the employee at his last known address.

Review of
refusal to
issue order

(2) An employee who considers himself aggrieved by the refusal to issue an order to an employer may apply to the Director in writing within fifteen days of the date of the mailing of the letter mentioned in subsection (1) for a review of the refusal and the Director shall cause the complaint to be reviewed by an employment standards officer who may exercise any power conferred under subsection 47 (1) or may refuse to issue an order,

in which case he shall advise the employee of the refusal in accordance with subsection (1). 1974, c. 112, s. 49.

50.—(1) An employer who considers himself aggrieved by an order made under section 39 or 47, upon paying the wages ordered to be paid and the penalty thereon, if any, may, within a period of fifteen days after the date of delivery or service of the order, or such longer period as the Director may for special reasons allow and provided that the wages have not been paid out pursuant to subsection 53 (2), apply for a review of the order by way of a hearing. Review of order

(2) An application for review shall be made in writing to the Director and shall specify the grounds for the application. Application for review

(3) The review shall be heard as soon as is practicable by a referee selected by the Director from the panel of referees. Hearing

(4) The employer, the employment standards officer from whose order the application for review is taken and such other persons as the referee may specify are parties to an application for review under this section and on the review the employer shall be the applicant and the employment standards officer and such other persons specified by the referee, if any, shall be the respondents. Parties

(5) Where a group or groups of persons having the same or substantially the same interest may be affected by the findings or opinions of the referee, the referee may specify one or more of the persons comprising the group or groups to represent the group or groups and the one or more so specified are parties to the review. Persons to represent groups

(6) On a review under this section, the referee may substitute his findings or opinions for those of the employment standards officer who issued the order being reviewed and may amend, rescind or affirm the order. Powers of referee

(7) A decision of the referee under this section is final and binding upon the parties thereto and such other parties as the referee may specify. 1974, c. 112, s. 50. Decision final and binding

51.—(1) Where an employment standards officer reports to the Director that an employer may have failed to pay the wages owing to an employee under this Act or to comply with this Act and the regulations, or is of the opinion that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the Appointment of referee

true intent and purpose of this Act and the regulations, the Director may appoint a referee selected by him from the panel of referees who shall hold a hearing.

Powers of
referee

(2) The referee holding the hearing under subsection (1), may, with necessary modifications, exercise the powers conferred upon an employment standards officer under this Act and in addition thereto or substitution therefor, where the referee determines that an act, agreement, arrangement or scheme is intended to have or has the effect, directly or indirectly, of defeating the true intent and purpose of this Act and the regulations, he shall state his findings of fact and issue to and cause to be served upon such person as he may direct an order requiring such person to cease and desist from the act, agreement, arrangement or scheme and may order what action, if any, the person shall take or what he shall refrain from doing in order to comply with this Act and the regulations.

Compliance
with order

(3) Every employer or person to whom an order is given under subsection (2) shall comply with it in accordance with its terms.

Decision
final and
binding

(4) The order of the referee is final and not subject to review under section 50. 1974, c. 112, s. 51.

Payment to
Director

52.—(1) Where the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act, he may, by registered letter or by a letter served personally, demand that the person pay the moneys otherwise payable to the employer in whole or in part to the Director in trust on account of the liability under this Act.

Receipt of
Director

(2) The receipt of the Director for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
to pay

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability discharged or the amount that he was required under this section to pay, whichever is the lesser. 1974, c. 112, s. 52.

Payment to
employee

53.—(1) Where wages are received under clause 47 (1) (b), the Director shall pay to the employee or employees the wages received on his or their behalf.

(2) Where compensation or wages have been paid by an ^{Idem} employer under an order issued under section 39 or clause 47 (1) (c), and no application for review has been made to the Director under section 50 within a period of fifteen days from the date of delivery of the order or such longer period as the Director has allowed, the Director shall pay to the employee or employees the compensation or wages obtained on his or their behalf.

(3) Where an application for review under section 50 has been made to the Director, the Director shall pay to the employee or the employees the wages owing, if any, in accordance with the decision of the referee and shall pay to the employer any moneys to which the employer is entitled under the decision. ^{Payment after review}

(4) Where the moneys received by the Director under this Act are insufficient to pay the wages due employees of an employer in full, the Director shall distribute the moneys received by him, including any penalty, ^{Moneys to be distributed rateably} rateably among those employees on whose behalf the moneys were received.

(5) No action or proceeding lies or shall be instituted ^{No action to lie} against the Director for acting in compliance with this section. 1974, c. 112, s. 53.

54.—(1) Where an order has been made under this Act requiring an employer to pay any moneys to the Director for or on behalf of an employee or employees, the Director may issue a certificate thereof and cause the same to be filed in a court of competent jurisdiction and thereupon the certificate shall be enforceable as a judgment or order of the court at the instance and in favour of the Director in the same manner as a judgment or order of the court. ^{Certificate of order}

(2) The Director shall send a copy of the certificate to the employer by registered mail and advise the employer of the date the certificate was filed. ^{Copy of certificate} 1974, c. 112, s. 54.

55.—(1) The Director, for any purpose relating to the administration or enforcement of this Act and the regulations, may, by registered letter addressed to an employer at his or its last known place of business or by demand served personally in the case of an individual and if the employer is a corporation upon the president, vice-president, secretary, treasurer or a director or the manager or person in charge of any branch of the corporation require the production for inspection, audit or examination of such books, papers, records or documents within such time and at such place as are stipulated in such letter or demand. ^{Demand for information}

Neglect
or refusal
to produce

(2) No employer shall neglect or refuse to produce the books, papers, records or documents at the time and place stipulated in the letter or demand.

Proof
of service
or mailing

(3) A certificate of the Director certifying that the letter or demand was served upon or sent by registered letter to the employer to whom it was addressed, accompanied by a true copy of the letter or demand, is admissible as evidence of the service, mailing and receipt of the notice. 1974, c. 112, s. 55.

Posting of
notices

56. The Director may require an employer to post and keep posted a notice relating to the administration or enforcement of this Act or the regulations in a conspicuous place where it is most likely to come to the attention of his employees, and the employer shall post and keep posted any such notice. 1974, c. 112, s. 56.

PART XIV

OFFENCES AND PENALTIES

No
discipline,
dismissal,
etc., by
employer

57.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee,

- (e) has sought the enforcement of this Act or the regulations;
- (f) has given information to an employment standards officer;
- (g) has participated in or is about to participate in a proceeding or hearing under this Act; or
- (h) testifies or is required to testify in a proceeding or hearing under this Act.

(2) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with or without compensation or compensation in lieu of reinstatement for loss of wages and other benefits to be assessed against the employer. Penalty for offence

(3) An employer who fails to comply with an order made under subsection (2) is guilty of an offence and on conviction is liable to a fine not exceeding \$100 for each day during which the failure continues. 1974, c. 112, s. 57. Offence, penalty

58. No person shall make, keep or produce or participate in, assent to or acquiesce in the making, keeping or producing of a false or deceptive book of account, payroll, record or other document required to be made, kept or produced under this Act or the regulations. 1974, c. 112, s. 58. Offence to keep false records, etc.

59.—(1) Every person who contravenes any provision of this Act or the regulations or a decision, requirement or order made under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. Offence

(2) Where an employer is convicted of an offence under subsection (1), the provincial offences court making the conviction shall, in addition to any other penalty, assess the amount unpaid in respect of an employee or employees and shall order the employer to pay the amount so assessed to the Director who shall collect and distribute to the employee or employees the amount ordered to be paid. Order for payment

(3) An order for payment under subsection (2) may be filed by the Director in a court of competent jurisdiction and thereupon the order shall be deemed to be an order of that court for the purposes of enforcement. 1974, c. 112, s. 59. Enforcement of order

60.—(1) Where a corporation contravenes any provision of this Act or the regulations, an officer, director or agent of the corporation or a person purporting to act in any such capacity who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted. Officers, etc., liable

Onus of
proof

(2) In determining whether for the purposes of subsection (1) an officer, director or agent of the corporation or a person purporting to act in any such capacity authorized, permitted or acquiesced in the contravention of any provision of this Act or the regulations, it shall be for the officer, director or agent or person purporting to act in any such capacity to prove that he did not authorize, permit or acquiesce in the contravention.

Additional
penalty

(3) Where an officer, director or agent of the corporation or a person purporting to act in any such capacity is convicted of an offence under subsection (1), the provincial offences court making the conviction may, in addition to any other penalty, assess the amount unpaid by the corporation in respect of the employee and shall order the officer, director or agent to pay the amount so assessed to the Director who shall collect and distribute to the employee the amount ordered to be paid.

No prosecu-
tion without
consent

(4) No prosecution under this section shall be instituted without the consent of the Director and the production of a consent purporting to be signed by the Director is admissible in evidence as *prima facie* proof of his consent. 1974, c. 112, s. 60.

Copies
constitute
evidence

61.—(1) In any proceeding or prosecution under this Act,

- (a) a copy of an order purporting to have been made under this Act or the regulations and purporting to have been signed by an employment standards officer or a referee; or
- (b) a document purporting to be a copy of a book, payroll, record or other document, or any extract therefrom, and purporting to be certified by an employment standards officer,

is evidence of the order or document, and the facts appearing in the order or document without proof of the signature or official character of the person appearing to have signed the order or the certificate and without further proof.

Certificate
constitutes
evidence

(2) In any proceeding or prosecution under this Act, a certificate purporting to be signed by the Director certifying that an employer has failed to make any payment under an order issued under this Act is evidence of the failure to pay without further proof. 1974, c. 112, s. 61.

Where
prosecution
may be heard

62. A prosecution in respect of an offence under this Act or the regulations may, at the election of the prosecutor, be heard, tried and determined by the provincial offences court having jurisdic-

tion in the county or district in which the accused is resident or carries on business although the subject-matter of the offence did not arise in that county or district. 1974, c. 112, s. 62.

63.—(1) No proceeding or prosecution under this Act ^{Limitation} shall be commenced more than two years after the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director.

(2) In a proceeding or prosecution under this Act, no ^{Idem} employee shall be entitled to recover any moneys due to him more than two years before the facts upon which the proceeding or prosecution is based first came to the knowledge of the Director.

(3) A statement as to the time when the facts upon which ^{Evidence} the proceeding or prosecution is based first came to the knowledge of the Director purporting to be certified by the Director, is, without proof of the office or signature of the Director, evidence of the facts stated therein. 1974, c. 112, s. 63.

64. Notwithstanding anything contained in this Act, the Director may in his discretion refuse to institute any proceed- ^{Director may exercise discretion} ing or prosecution for the failure of an employer to comply with this Act where a remedy therefor is available to an employee under the terms of a collective agreement. 1974, c. 112, s. 64.

PART XV

REGULATIONS

65.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations for carrying out the purposes of this Act and, without restricting the generality of the foregoing, may make regulations,

- (a) establishing minimum rates of wages for employees or classes of employees;
- (b) designating or defining any industry, activity, business, work, trade, occupation or profession or class of employers or employees, for the purposes of this Act or any Part thereof, or the regulations or any provision thereof;
- (c) designating or defining the zone or zones within Ontario in which this Act, a Part of this Act, or the regulations or any provision thereof, is applicable;

- (d) exempting any industry, activity, business, work, trade, occupation, profession, or class of employers or employees from the application of this Act, a Part of this Act, or the regulations or any provision thereof;
- (e) prescribing what constitutes the performance of work in respect of which wages shall be paid;
- (f) prescribing the deductions that may be made from wages or any other payment or allowance to an employee;
- (g) prescribing the maximum number of hours that may elapse between the commencement and the termination of the daily work period or periods of an employee;
- (h) prescribing the particulars of employment that shall be given to an employee;
- (i) prescribing rates of pay and hours of work for the whole or part of any industry, business or trade in a designated part or parts of Ontario;
- (j) providing for and requiring the approval of the Director of any agreement or arrangement between an employer and an employee or his agent providing for the averaging of daily hours of work for a work week or daily or weekly hours of work over a longer period of time than a work week;
- (k) providing for the averaging of wages over a longer period of time than a work week for the purpose of determining a regular rate under this Act;
- (l) providing for the setting up of committees to advise the Minister on any matters arising in relation to the administration of this Act;
- (m) prescribing the manner of giving notice of termination and the period and the form and content of such notice;
- (n) prescribing what constitutes termination of employment;
- (o) prescribing what constitutes "a definite term or task", "lay-off", "temporary lay-off", "indefinite lay-off", and a "period of employment";

- (p) providing that any payments to an employee by way of pension, insurance, workman's compensation, bonus, severance, supplementary unemployment benefits, or similar arrangements shall or shall not be taken into account on termination of employment;
- (q) notwithstanding Part VI, prescribing when overtime pay shall be paid to an employee or class of employees by an employer, a class of employers, or an industry, business or trade for any hours of work in excess of a specified number of hours of work in a work week or a longer period of time than a work week;
- (r) prescribing the hours of work after which overtime is payable in a work week to an employee who does two or more kinds of work for which different hours of work in a work week upon which overtime is payable are prescribed under this Act;
- (s) prescribing maximum allowances for living accommodation, fuel, heat, utility charges or room or board to be taken into account in calculating minimum wages;
- (t) prescribing the minimum number of hours for which an employee is entitled to be paid wages and providing for conditions and exemptions in respect thereof;
- (u) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation made under subsection (1) or any provision thereof may be confined in its application to any class of employer, employee or establishment defined in the regulation. 1974, c. 112, s. 65.

Application

CHAPTER 138

Endangered Species Act

WHEREAS it is considered expedient to provide for the ^{Preamble} conservation, protection, restoration and propagation of species of fauna and flora of the Province of Ontario that are threatened with extinction;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

<sup>Interpre-
tation</sup>

(a) "Minister" means the Minister of Natural Resources;

(b) "officer" means a conservation officer or a deputy conservation officer appointed under the *Game and Fish Act* <sup>R.S.O. 1980,
c. 182</sup> and includes a member of the Royal Canadian Mounted Police Force or the Ontario Provincial Police Force.
1971, c. 52, s. 1; 1972, c. 4, s. 12.

2. The administration of this Act is under the control <sup>Administra-
tion of Act</sup> and direction of the Minister. 1971, c. 52, s. 2.

3.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations declaring any species of fauna or flora to be threatened with extinction by reason of,

(a) the destruction of its habitat or a drastic modification or severe curtailment thereof;

(b) over-exploitation;

(c) disease;

(d) predacity;

(e) the use of chemicals; or

(f) any other factor or factors considered relevant.

(2) Any regulation may be limited territorially or as to <sup>Regulations
may be
limited</sup> time or otherwise. 1971, c. 52, s. 3.

Powers and
duties of
an officer
R.S.O. 1980,
c. 182

4. For the purposes of this Act, an officer has the powers and duties of an officer under the *Game and Fish Act*. 1971, c. 52, s. 4.

Prohibited
acts

5. No person shall wilfully,

- (a) kill, injure, interfere with or take or attempt to kill, injure, interfere with or take any species of fauna or flora; or
- (b) destroy or interfere with or attempt to destroy or interfere with the habitat of any species of fauna or flora,

declared in the regulations to be threatened with extinction. 1971, c. 52, s. 5.

Offence

6. Any person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$3,000, or to imprisonment for a term of not more than six months, or to both. 1971, c. 52, s. 6.

CHAPTER 139

Energy Act

1. In this Act,

Interpre-
tation

- (a) “appliance” means a device that uses a hydrocarbon and includes all valves, fittings, controls and components attached or to be attached thereto;
- (b) “contractor” means a person who carries on the business of, or a person whose business includes, installing, removing, repairing, altering or servicing appliances, and includes a person who agrees by himself or through another to install, remove, repair, alter or service appliances sold or leased by him;
- (c) “Deputy Minister” means the Deputy Minister of Consumer and Commercial Relations;
- (d) “distributor” means a person who supplies a hydrocarbon to an end user, and “distribute” and “distribution” have corresponding meanings;
- (e) “handling” means the transmission, transportation or distribution of a hydrocarbon, or the storage of a hydrocarbon in a container, and “handle” and “handler” have corresponding meanings;
- (f) “hydrocarbon” means a chemical compound of hydrogen and carbon used as a fuel, either liquid or gaseous;
- (g) “inspector” means an inspector appointed for the purposes of this Act and the regulations, and includes the Director;
- (h) “install” includes placing an appliance in position for temporary use, venting an appliance and connecting piping to an appliance;
- (i) “Minister” means the Minister of Consumer and Commercial Relations;

- (j) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (k) "pipeline" means a pipe that is used for the transmission or distribution of a hydrocarbon and includes fittings, valves, controls, compressor stations, pressure regulating stations and meter stations, but does not include the pipe, fittings, valves or controls of the end user;
- (l) "regulations" means the regulations made under this Act;
- (m) "transmitter" means a person who supplies a hydrocarbon by pipeline to a distributor and "transmit", "transmission" and "transmission line" have corresponding meanings;
- (n) "transporter" means a person who supplies a hydrocarbon other than by pipeline to a distributor or an end user and "transport" and "transportation" have corresponding meanings;
- (o) "work" used as a noun, means the facilities used in the handling of a hydrocarbon. 1971, c. 44, s. 1; 1972, c. 1, s. 40.

Adminis-
tration
of Act

2. The Minister is responsible for the administration of this Act. 1971, c. 44, s. 2.

Appointment
of inspectors
and Director

3.—(1) The Deputy Minister may appoint such inspectors as are necessary for the purposes of this Act and the regulations and may designate one of such inspectors as the Director.

Powers and
duties of
inspectors
and Director

(2) The inspectors and the Director may exercise the powers and shall perform the duties assigned to them by or under this or any other Act and the Director is the chief administrator of this Act and has general supervision and direction of the inspectors.

Certificate
of appoint-
ment and
identification

(3) The Deputy Minister shall issue to every inspector a certificate of his appointment and identification.

Production
of certificate

(4) Every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment and identification upon request. 1971, c. 44, s. 3.

Powers of
inspectors

4.—(1) An inspector may for the purpose of carrying out his duties under this Act and the regulations,

- (a) subject to subsection (2), enter in or upon any premises at any time without a warrant;
- (b) take up or use at any time any work or appliance or part thereof;
- (c) require the production of any drawing or specification of a work or appliance, or any part thereof, or any licence, record or report and may inspect, and make copies of, the same and may require information from any person concerning any matter related to a work or appliance or part thereof or the handling or use thereof;
- (d) be accompanied by any person at the request of the inspector who has special or expert knowledge of any matter in relation to a work or appliance or a part thereof or the handling or use thereof;
- (e) alone, or in conjunction with such other persons possessing special or expert knowledge, make such examinations, tests or inquiries as may be necessary to ascertain whether this Act and the regulations are being complied with and for such purpose take or remove any material or substance subject to the handler or user being notified thereof.

(2) An inspector shall not enter any room or place ^{Warrant} actually being used as a dwelling where the occupier refuses entry except under the authority of a search warrant issued under section 142 of the *Provincial Offences Act*. 1971, c. 44, ^{R.S.O. 1980, c. 400} s. 4, *revised*.

5.—(1) No person shall hinder, obstruct, molest or interfere ^{Obstruction of inspector} with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act and the regulations.

(2) Every person shall furnish all necessary means in his ^{Assistance of inspector} power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and duties under this Act and the regulations.

(3) No person shall neglect or refuse to produce a licence, ^{Refusal to produce} certificate, drawing, specification, record or report as required by an inspector under clause 4 (1) (c).

(4) No person shall furnish an inspector with false information ^{False information} or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act and the regulations. 1971, c. 44, s. 5.

Information
confidential

6.—(1) An inspector shall not publish, disclose or communicate to any person any information, record, report or statement acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act and the regulations.

Compel-
lability in
civil suit

(2) An inspector is not a compellable witness in a civil suit or proceeding respecting any information, record, report, statement or test acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations.

Exception

(3) The Director may disclose or publish information, material, statements or result of a test acquired, furnished, obtained or made under the powers conferred under this Act and the regulations. 1971, c. 44, s. 6.

Liability
of inspector

7.—(1) No action, or other proceeding for damages lies or shall be instituted against an inspector for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

Liability
of Crown
R.S.O. 1980,
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an inspector to which it would otherwise be subject and the Crown is liable under that Act for any such tort in like manner as if subsection (1) had not been enacted. 1971, c. 44, s. 7.

Directions
by inspector
where non-
compliance

8.—(1) Where an inspector finds that any provision of this Act or the regulations is being contravened, he may give to the person whom he believes to be the contravener, his supervisor or foreman or any of them an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such time as he specifies.

Idem

(2) Where an inspector gives an order under this section, the order shall contain sufficient information to specify the nature of the contravention.

Affixing
tags

(3) Where an inspector gives an order under this section and he considers that the contravention of this Act or the regulations may be a hazard to persons or property, he,

(a) shall order that the appliance or work shall not be used until the order is complied with;

(b) shall affix a tag in the prescribed form to the appliance or work and, subject to subsection (4), no person except an inspector shall remove the tag; and

(c) shall notify in writing the owner or person in charge of the appliance or work and the handler of the affixing of the tag.

(4) Where a tag has been affixed to the appliance or work, ^{Removal of tags} the tag shall not be removed except by a gas fitter, propane fitter or oil-burner mechanic certified under this Act and the regulations who has made the appliance or work conform to or comply with this Act and the regulations.

(5) When the tag is removed by a gas fitter, propane ^{Idem} fitter or oil-burner mechanic under subsection (4), the fitter or mechanic shall endorse his certificate number, name and address upon the tag and send it by prepaid registered mail or deliver it to the inspector who affixed the tag.

(6) No person shall remove a hydrocarbon from or ^{Use of tagged appliance} knowingly supply a hydrocarbon to an appliance or work to which a tag is attached, except a gas fitter, propane fitter or oil-burner mechanic certified under this Act and the regulations for the purpose of making the appliance or work conform to or comply with this Act and the regulations.

(7) No person shall use an appliance or work to which a ^{Idem} tag is attached.

(8) Any person who considers himself aggrieved by a decision ^{Appeal from inspector} or order of an inspector made under this section may appeal to the Director who shall hear and dispose of the appeal as promptly as is practicable but the bringing of such appeal does not affect the operation of the decision or order appealed from pending disposition of the appeal.

(9) An appeal to the Director may be made in writing or ^{Oral or written} orally or by telephone but the Director may require the grounds for appeal to be specified in writing before the appeal is heard.

(10) On an appeal under this section, the Director may ^{Powers of Director} substitute his findings or opinion for those of the inspector who made the decision or order appealed from and may rescind or affirm the decision or order or make a new decision or order in substitution therefor and the decision or order of the Director shall stand in place of and have the like effect under this Act as the decision or order of the inspector.

1971, c. 44, s. 8.

Dangerous
accidents

9. Subject to the regulations, where it appears that carbon monoxide poisoning, asphyxiation, explosion or fire has occurred because of the use or handling of a hydrocarbon,

- (a) the handler shall forthwith notify an inspector of the occurrence by telephone, telegraph or other direct means; and
- (b) no person shall, except in the interests of public safety, saving life, relieving human suffering, continuity of service or preservation of property, interfere with or disturb any wreckage, article or thing at the scene of and connected with the occurrence, but in no case shall the wreckage, article or thing be carried away or destroyed by any person unless permission so to do is given by an inspector. 1971, c. 44, s. 9.

Sale of
appliance
where
approval
required

10. Where the regulations require the approval of an appliance or any equipment or other thing employed or to be employed in the handling or use of a hydrocarbon, no person shall offer for sale, sell, lease, rent, buy or install the appliance or equipment or other thing unless it is approved. 1971, c. 44, s. 10.

Installation,
etc., of
appliance

11. No person shall install, alter, repair, service or remove any appliance or any equipment or other thing employed or to be employed in the handling or use of a hydrocarbon except in accordance with the regulations. 1971, c. 44, s. 11.

Handler's
licence

12. No person shall handle a hydrocarbon unless he is the holder of a licence for that purpose. 1971, c. 44, s. 12.

Registration
of
contractors

13. No person shall be a contractor unless he is registered for the purpose. 1971, c. 44, s. 13.

Installer's
certificate

14.—(1) Subject to the regulations, no person shall install, alter, purge, activate, repair, service or remove any appliance or any equipment or other thing employed or to be employed in the handling or use of a hydrocarbon unless he is the holder of a certificate for the purpose.

Exception

(2) Subsection (1) does not apply where the installing, altering, purging, activation, repair, service or removal is done by a person in the presence of a holder of the certificate referred to in subsection (1). 1971, c. 44, s. 14.

Notice of
initial
activation
of appliance

15.—(1) No person shall initially activate an appliance that is to be supplied with a hydrocarbon by pipeline without first giving notice in writing to the distributor of the address

of the premises at which the installation was made or is to be made and the type of appliance supplied or to be supplied.

(2) Where premises are connected to a supply of hydrocarbon by pipeline for the first time, no person shall initially activate an appliance in the premises that is connected to the pipeline until the distributor of the hydrocarbon has examined the installation of the appliance and has accepted the installation and use as being in compliance with this Act and the regulations. 1971, c. 44, s. 15.

Examination
before
initial
activation
of appliance

16. A distributor shall have access, at all reasonable times and upon reasonable notice, to all parts of every premises to which he supplies a hydrocarbon by pipeline for the purpose of,

Access by
distributor

(a) examining any appliance in or on the premises and disconnecting the appliance if it, its installation or its use does not conform with this Act or the regulations; and

(b) placing, protecting, setting, shutting off, removing, repairing or altering any meter or regulator owned by the distributor in or on the premises. 1971, c. 44, s. 16.

17.—(1) No person shall activate a pipeline until it has been examined and accepted as being in accordance with the regulations.

Initial
activation
of pipeline

(2) The examination and acceptance required by subsection (1) shall be made by a person who holds a certificate as a pipeline inspector issued under the regulations. 1971, c. 44, s. 17.

Idem

18.—(1) No person shall dig, bore, trench, grade, excavate or break ground with mechanical equipment or explosives without first ascertaining the location of any pipeline that may be interfered with.

Duty to
inquire
before
excavation

(2) Where the owner of a pipeline is requested by any person about to dig, bore, trench, grade, excavate or break ground with mechanical equipment or explosives to give the location of a pipeline for the purpose of subsection (1), he shall within a reasonable time of the receipt of the request and having regard to all the circumstances of the case, furnish reasonable information as to the location of the pipeline. 1971, c. 44, s. 18.

Duty to
provide
information

19. No person shall interfere with or damage any pipeline without authority to do so. 1971, c. 44, s. 19.

Interference
with pipeline

Duty of
employer
to obtain
compliance

20.—(1) Every person who installs, removes, repairs, alters or services appliances or works shall instruct his employees to comply with this Act and the regulations.

Idem

(2) Every person who installs, removes, repairs, alters or services appliances or works shall take every precaution reasonable in the circumstances to ensure that his employees comply with this Act and the regulations. 1971, c. 44, s. 20.

Order for
priority
of use

21.—(1) Notwithstanding anything in this or any other Act, or in any contract for the supply of natural gas made between a distributor and a consumer, where the supply of natural gas to a distributor is interrupted or curtailed, the Minister may order a distributor to halt or reduce the supply of natural gas to a consumer or a class or classes of consumers if he considers it advisable in the circumstances.

Compliance

(2) Every person to whom such an order is directed shall comply therewith in accordance with its terms. 1971, c. 44, s. 21.

Issuance
of licences,
certificates
and regis-
tration

22.—(1) A licence, certificate or registration shall be issued or made by the Director and is subject to such terms and conditions as are therein contained or as prescribed by the regulations.

Refusal,
suspension
or revocation

(2) The Director may refuse to grant or renew or may suspend or revoke a licence, certificate or registration where,

- (a) the applicant or holder has contravened a provision of this Act or the regulations; or
- (b) there are reasonable grounds for believing that the applicant or holder is without capacity or not competent or lacks reasonable skill. 1971, c. 44, s. 22.

Notice of
proposed
refusal or
revocation

23.—(1) Where the Director proposes to refuse to grant or to refuse to renew or to suspend or revoke a licence, certificate or registration he shall serve notice of his proposal, together with written reasons therefor, on the applicant or holder of the licence, certificate or registration.

Idem

(2) A notice under subsection (1) shall inform the applicant or holder of the licence, certificate or registration that he is entitled to a hearing by a judge of the county or district court for the county or district in which he resides if he applies to a judge thereof within fifteen days after the notice under subsection (1) is served on him and he may so apply for such a hearing.

(3) Where an applicant or holder of a licence, certificate or registration does not apply to a judge for a hearing in accordance with subsection (2), the Director may refuse to grant a licence, certificate or registration, or carry out the proposal stated in his notice under subsection (1). Powers of Director where no hearing

(4) Where an applicant or holder of a licence, certificate or registration applies to a judge for a hearing in accordance with subsection (2), the judge shall in writing appoint a time and place for and hold the hearing. Appointment for hearing

(5) Upon the application of the Director at the hearing, the judge may by order require the Director to grant the licence, certificate or registration, or permit him to carry out his proposal, or direct that such action as the judge considers proper be taken by the Director in accordance with this Act and the regulations and for such purposes the judge may substitute his opinion for that of the Director. Powers of judge where hearing

(6) The Director may serve notice under subsection (1) personally or by registered mail addressed to the applicant or the holder of the licence, certificate or registration at his address last known to the Director and where notice is served by registered mail the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. Service of notice

(7) A judge to whom application is made by an applicant or the holder of a licence, certificate or registration for a hearing under this section, may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant or the holder of a licence, certificate or registration pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension. Extension of time for application

(8) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his licence, certificate or registration a holder of a licence, certificate or registration has applied for renewal of his licence, certificate or registration and paid the prescribed fee, his licence, certificate or registration shall be deemed to continue, Continuation pending renewal

(a) until the renewal is granted; or

- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision. 1971, c. 44, s. 23.

Parties

24.—(1) The Director, the applicant, the holder of the licence, certificate or registration who has applied for the hearing and such other persons as are specified by the judge are parties to the proceedings before a judge under section 23.

Opportunity to achieve compliance

(2) Notice of a hearing under section 23 shall afford to the holder of a licence, certificate or registration a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence, certificate or registration.

Examination of documentary evidence

(3) An applicant or holder of a licence, certificate or registration who is a party to proceedings under section 23 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording evidence

(4) The oral evidence taken before a judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(5) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 44, s. 24.

R.S.O. 1980,
c. 484

Appeal to Divisional Court

25.—(1) Any party to proceedings before a judge under section 23 may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Record to be filed

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Divisional Court the record of the proceedings before him in which the decision or order was made, which, together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard

(3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers of court on appeal

(4) The Divisional Court may, on the appeal, affirm the decision of the judge appealed from or may rescind it and

make such new decision as the court considers proper under this Act and the regulations and may order the Director to do any act or thing he is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 44, s. 25.

26. Notwithstanding section 21, the Director by notice to the holder of a licence, certificate or registration and without a hearing, may provisionally refuse to renew or suspend the holder's licence, certificate or registration where in the Director's opinion it is necessary to do so for the immediate protection of any person or the public and the Director so states in such notice giving his reasons therefor, and thereafter section 23 applies as if the notice given under this section were a notice of a proposal to revoke the licence, certificate or registration under section 22. 1971, c. 44, s. 26.

Interim
suspension
pending
final
decision

27. Every person who,

Offences

- (a) contravenes or fails to comply with any provision of this Act or the regulations;
- (b) knowingly makes a false statement in any document required by the regulations;
- (c) contravenes or fails to comply with a term or condition of a licence, certificate or registration;
- (d) contravenes or fails to comply with an order of an inspector given under section 8; or
- (e) contravenes or fails to comply with an order of the Minister made under section 21,

is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both. 1971, c. 44, s. 27.

28.—(1) The Lieutenant Governor in Council may make regulations for the handling and use of hydrocarbons and, in particular and without limiting the generality of the foregoing, may make regulations,

Regulations

- (a) regulating the installation, filling, testing, maintenance, repair, removal, replacement, inspection and use of appliances or works and the handling and use of hydrocarbons;

- (b) requiring and providing for the approval of design and construction standards for appliances and works;
- (c) designating organizations to test appliances to the standards approved under the regulations and providing for the placing of the label of such organization on the appliances and works that conform to the standards;
- (d) prohibiting the sale, purchase, renting and use of an appliance that does not bear the label of a testing organization or of the Ministry;
- (e) requiring the reporting of accidents;
- (f) requiring safety procedures to be filed by distributors and for the approval thereof by the Director and compliance therewith by distributors;
- (g) requiring owners of pipelines to develop procedures for locating pipelines and providing for the approval of such procedures by the Director;
- (h) providing for the registration of contractors and providing for the expiry and renewal of registration;
- (i) providing for the issue, expiry and renewal of licences, certificates or labels and prescribing terms and conditions upon which licences, certificates or labels may be issued or renewed;
- (j) prescribing the fees to be paid for the inspection of pipelines or appliances and prescribing by whom the fees shall be paid;
- (k) prescribing the fee payable for any application, examination, certificate, licence, label, registration, or renewal thereof;
- (l) prescribing forms and tags, and providing for their use;
- (m) providing for and requiring the keeping of records and plans and the making of affidavits, returns, statements or reports on the handling or use of a hydrocarbon;
- (n) exempting any person or any class of persons, and any appliance or work or any class of them from compliance with this Act and the regulations or of any of the provisions thereof;

(o) for any matter provided in this Act to be done by regulation.

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code and may require compliance with any code that is so adopted.

Adoption
of codes
by reference

(3) A regulation may be general or particular in its application. 1971, c. 44, s. 28.

Limited
application
of regula-
tions

29. This Act and the regulations prevail over any municipal by-law. 1971, c. 44, s. 29.

Municipal
by-laws

CHAPTER 140

Environmental Assessment Act

PART I

INTERPRETATION AND APPLICATION

1. In this Act,

Interpre-
tation

- (a) "air" includes enclosed air;
 - (b) "Board" means the Environmental Assessment Board referred to in Part III;
 - (c) "environment" means,
 - (i) air, land or water,
 - (ii) plant and animal life, including man,
 - (iii) the social, economic and cultural conditions that influence the life of man or a community,
 - (iv) any building, structure, machine or other device or thing made by man,
 - (v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man, or
 - (vi) any part or combination of the foregoing and the interrelationships between any two or more of them,
- in or of Ontario;
- (d) "environmental assessment", when used in relation to an undertaking, means an environmental assessment submitted pursuant to subsection 5 (1);

- (e) "land" includes enclosed land, land covered by water and subsoil;
- (f) "Minister" means the Minister of the Environment;
- (g) "Ministry" means the Ministry of the Environment;
- (h) "municipality" means the corporation of a county, metropolitan area, regional area, district area, city, town, village, township or improvement district and includes a local board as defined in the *Municipal Affairs Act* and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;

R.S.O. 1980,
c. 303
- (i) "person" includes a municipality, Her Majesty in right of Ontario, a Crown agency within the meaning of the *Crown Agency Act*, a public body, a partnership, an unincorporated joint venture and an unincorporated association;

R.S.O. 1980,
c. 106
- (j) "proceed" includes "carry on";
- (k) "proponent" means a person who,
 - (i) carries out or proposes to carry out an undertaking, or
 - (ii) is the owner or person having charge, management or control of an undertaking;
- (l) "provincial officer" means a person designated by the Minister as a provincial officer under Part IV;
- (m) "public body" means a body other than a municipality that is defined as a public body by the regulations;
- (n) "regulations" means the regulations made under this Act;
- (o) "undertaking" means,
 - (i) an enterprise or activity or a proposal, plan or program in respect of an enterprise or

activity by or on behalf of Her Majesty in right of Ontario, by a public body or public bodies or by a municipality or municipalities, or

- (ii) a major commercial or business enterprise or activity or a proposal, plan or program in respect of a major commercial or business enterprise or activity of a person or persons other than a person or persons referred to in subclause (i) that is designated by the regulations;

(p) "water" means surface water and ground water, or either of them. 1975, c. 69, s. 1.

2. The purpose of this Act is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment. 1975, c. 69, s. 2.

Purpose of
Act

3. This Act applies to,

Application
of Act

- (a) enterprises or activities or proposals, plans or programs in respect of enterprises or activities by or on behalf of Her Majesty in right of Ontario or by a public body or public bodies or by a municipality or municipalities on and after the day this Act comes into force;
- (b) only on and after a day to be named by proclamation of the Lieutenant Governor, major commercial or business enterprises or activities or proposals, plans or programs in respect of major commercial or business enterprises or activities of a person or persons, other than a person referred to in clause (a), designated by the regulations. 1975, c. 69, s. 3.

4. This Act binds the Crown. 1975, c. 69, s. 4.

The Crown

PART II

ACCEPTANCE, AMENDMENT, APPROVAL

5.—(1) The proponent of an undertaking to which this Act applies shall submit to the Minister an environmental

Submission
of environ-
mental
assessment

assessment of the undertaking and shall not proceed with the undertaking until,

- (a) the environmental assessment has been accepted by the Minister; and
- (b) the Minister has given his approval to proceed with the undertaking.

Exception

(2) Subsection (1) does not prohibit a feasibility study, including research, or any action necessary to comply with this Act before the approval of the Minister is given to proceed with an undertaking.

Content
of environ-
mental
assessment

(3) An environmental assessment submitted to the Minister pursuant to subsection (1) shall consist of,

- (a) a description of the purpose of the undertaking;
- (b) a description of and a statement of the rationale for,
 - (i) the undertaking,
 - (ii) the alternative methods of carrying out the undertaking, and
 - (iii) the alternatives to the undertaking;
- (c) a description of,
 - (i) the environment that will be affected or that might reasonably be expected to be affected, directly or indirectly,
 - (ii) the effects that will be caused or that might reasonably be expected to be caused to the environment, and
 - (iii) the actions necessary or that may reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects upon or the effects that might reasonably be expected upon the environment,

by the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking; and

- (d) an evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking. 1975, c. 69, s. 5.

6.—(1) Where a proponent is required under this Act to submit to the Minister an environmental assessment of an undertaking, Where licences, etc., not to be issued

- (a) a licence, permit, approval, permission or consent that is required under any statute, regulation, by-law or other requirement of the Province of Ontario, an agency thereof, a municipality or a regulatory authority, in order to proceed with the undertaking shall not be issued or granted; and
- (b) if it is intended that the Province of Ontario or any agency thereof will provide a loan, a guarantee of repayment of a loan, a grant or a subsidy with respect to the undertaking, the loan, guarantee, grant or subsidy shall not be approved, made or given,

unless,

- (c) the environmental assessment has been submitted to and accepted by the Minister; and
- (d) the Minister has given approval to proceed with the undertaking.

(2) Subsection (1) does not apply to, Exception

- (a) a licence, permit, approval, permission or consent;
- (b) a loan, guarantee, grant or subsidy,

in relation to a feasibility study, including research, or for any action necessary to comply with this Act before the approval of the Minister is given to proceed with the undertaking. 1975, c. 69, s. 6.

7.—(1) Where an environmental assessment of an undertaking is submitted by a proponent to the Minister, the Minister, Preparation of review and notice

- (a) shall cause a review of the assessment to be prepared; and

(b) shall give notice of,

- (i) the receipt of the assessment,
- (ii) the completion of the preparation of the review,
- (iii) the place or places where the assessment and review may be inspected, and
- (iv) such other matters as the Minister considers necessary or advisable,

to the proponent, the clerk of each municipality in which the undertaking is being or will be carried out and, in such manner as the Minister considers suitable, to the public and to such other persons as the Minister considers necessary or advisable.

Inspection
of environ-
mental
assessment

(2) Any person may inspect an environmental assessment of an undertaking and the review thereof in accordance with the terms of the notice referred to in subsection (1) and may, within thirty days of the giving of the notice or within such longer period as may be stated in the notice,

- (a) make written submissions to the Minister with respect to the undertaking, the environmental assessment and the review thereof; and
- (b) by written notice to the Minister, require a hearing by the Board with respect to the undertaking, the environmental assessment and the review thereof.

Withdrawal
of environ-
mental
assessment

(3) A proponent may withdraw or amend an environmental assessment at any time prior to the day on which notice is given under subsection (1) and thereafter may withdraw or amend an environmental assessment subject to such terms and conditions as the Minister may by order impose. 1975, c. 69, s. 7.

Matters
to be
considered
by the
Minister

8. The Minister, in determining whether to accept or to amend and accept an environmental assessment shall consider the purpose of this Act, the environmental assessment submitted to him, the review thereof, the written submissions, if any, made with respect thereto, any reports required by and submitted to him, and any further review that the Minister has caused to be prepared. 1975, c. 69, s. 8.

Notice of
acceptance
of environ-
mental
assessment

9. Where a hearing is not required,

- (a) pursuant to clause 12 (2) (a); or

- (b) pursuant to clause 12 (2) (b) after receipt of a notice pursuant to clause 7 (2) (b),

and the Minister, after considering the matters set out in section 8, is of the opinion that the environmental assessment is satisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall accept the assessment and give notice thereof to the proponent and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to subsection 7 (2). 1975, c. 69, s. 9.

10.—(1) Where a hearing is not required,

- (a) pursuant to clause 12 (2) (a); or

- (b) pursuant to clause 12 (2) (b) after receipt of a notice pursuant to clause 7 (2) (b),

Notice of
proposal
to amend
environ-
mental
assessment

and the Minister, after considering the matters set out in section 8, is of the opinion that the environmental assessment does not comply with this Act or the regulations, is inconclusive or is otherwise unsatisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall give notice to the proponent and in such manner as the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to subsection 7 (2) that the Minister proposes to amend the environmental assessment, together with written reasons therefor including particulars of the amendments that the Minister proposes to make to the environmental assessment and, after considering any further written submissions of the proponent and of any such person, the Minister, where a hearing is not required pursuant to clause 12 (2) (a) or to clause 12 (2) (b) after receipt of a notice pursuant to subsection 12 (1), shall accept or amend and accept the environmental assessment.

(2) The Minister shall give notice of the acceptance or the amendment and acceptance of the environmental assessment pursuant to subsection (1) to the proponent, and in such manner as the Minister considers suitable, to any person who

Notice of
amendment
and
acceptance
of environ-
mental
assessment

has made a written submission to the Minister pursuant to subsection 7 (2), and where the assessment is amended a copy of the assessment as amended and accepted together with written reasons therefor, to the proponent. 1975, c. 69, s. 10.

Minister
may order
research,
etc., and
reports

11.—(1) Where, before accepting an environmental assessment, the Minister is of the opinion that the environmental assessment as submitted does not comply with this Act or the regulations, is inconclusive or is otherwise unsatisfactory to enable a decision to be made as to whether approval to proceed with the undertaking with respect to which the environmental assessment is submitted should or should not be given or should be given subject to terms and conditions, the Minister shall give notice to the proponent that he proposes, by order, to require the proponent to carry out such research, investigations, studies and monitoring programs related to the undertaking in respect of which the environmental assessment is submitted as are mentioned in the notice, together with written reasons therefor.

Written
submissions

(2) The Minister, after considering any written submissions of the proponent made within fifteen days of the giving of the notice or within such longer period as may be stated in the notice, may by order require the proponent to carry out such research, investigations, studies and monitoring programs related to the undertaking in respect of which the environmental assessment is submitted and to submit such reports thereon as the Minister considers necessary.

Notice of
order

(3) The Minister shall, in such manner as the Minister considers suitable, give notice of the order to any person who has made a written submission to the Minister pursuant to subsection 7 (2).

Reports to
be incor-
porated in
environ-
mental
assessment

(4) Upon submission of the reports to the Minister they shall be incorporated as part of the environmental assessment and the review thereof that the Minister caused to be prepared may be revised accordingly. 1975, c. 69, s. 11.

Notice

12.—(1) A notice that the Minister proposes to amend an environmental assessment shall state that the proponent or any person who has made a written submission to the Minister pursuant to subsection 7 (2) may, by written notice delivered to the Minister within fifteen days after the giving of the notice of proposal to amend, require a hearing by the Board and the proponent or the person may so require such a hearing.

(2) The Minister, by notice in writing,

Hearing

- (a) may, where he considers it advisable; or
- (b) shall, upon receipt of a notice requiring a hearing pursuant to subsection (1) or pursuant to subsection 7 (2), unless in his absolute discretion he considers that the requirement is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

require the Board to hold a hearing with respect to,

- (c) the acceptance or amendment and acceptance of the environmental assessment;
- (d) whether approval to proceed with the undertaking in respect of which the environmental assessment was submitted should or should not be given; and
- (e) whether the approval mentioned in clause (d) should be given subject to terms and conditions and, if so, the provisions of such terms and conditions.

(3) Upon receipt from the Minister of a notice pursuant ^{Idem} to subsection (2), section 13 or clause 24 (1) (c), the Board shall appoint a time for the hearing, shall give reasonable notice thereof to the proponent and to the Minister and in such manner as the Minister may direct, notice to the public, to any person who has made a written submission to the Minister pursuant to subsection 7 (2) and to such other persons as the Minister considers necessary or advisable, and such other notice as the Board considers proper, and shall hold the hearing and decide the matters referred to it in the notice of the Minister.

(4) The parties to any proceedings before the Board in ^{Parties} respect of the undertaking are,

- (a) the proponent;
- (b) any person, other than the Minister, who has required the hearing; and
- (c) such other persons as,

- (i) the Board, in its opinion, specifies have an interest in the proceedings, and

- (ii) the Board, having regard to the purpose of this Act, may specify. 1975, c. 69, s. 12.

Other
hearings

13. Where an environmental assessment has been accepted or amended and accepted, and no hearing has been held pursuant to section 12, the proponent or a person who has made a written submission pursuant to subsection 7 (2) may, by written notice delivered to the Minister within fifteen days after the giving of the notice mentioned in section 9 or the notice mentioned in subsection 10 (2), require a hearing by the Board with respect to,

- (a) whether approval to proceed with the undertaking in respect of which the environmental assessment was submitted should or should not be given; and
- (b) whether the approval mentioned in clause (a) should be given subject to terms and conditions and, if so, the provisions of such terms and conditions, and

the Minister, by notice in writing,

- (c) may, where he considers it advisable; or
- (d) shall, upon receipt of any such notice requiring a hearing, unless in his absolute discretion he considers that the requirement is frivolous or vexatious or that a hearing is unnecessary or may cause undue delay,

require the Board to hold a hearing. 1975, c. 69, s. 13.

Approval
to proceed

14.—(1) Where the Minister has accepted an environmental assessment of an undertaking, the Minister may, with the approval of the Lieutenant Governor in Council or of such Ministers of the Crown as the Lieutenant Governor in Council may designate,

- (a) give approval to proceed with the undertaking;
- (b) give approval to proceed with the undertaking subject to such terms and conditions as the Minister considers necessary to carry out the purpose of this Act and in particular requiring or specifying,
 - (i) the methods and phasing of the carrying out of the undertaking,

- (ii) the works or actions to prevent, mitigate or remedy effects of the undertaking on the environment,
 - (iii) such research, investigations, studies and monitoring programs related to the undertaking, and reports thereof, as he considers necessary,
 - (iv) such changes in the undertaking as he considers necessary,
 - (v) that the proponent enter into one or more agreements related to the undertaking with any person with respect to such matters as the Minister considers necessary,
 - (vi) that the proponent comply with all or any of the provisions of the environmental assessment as accepted by the Minister that may be incorporated by reference in the approval,
 - (vii) the period of time during which the undertaking, or any part thereof, shall be commenced or carried out; or
- (c) refuse to give approval to proceed with the undertaking.

(2) In determining whether to give approval, give approval subject to terms and conditions or refuse to give approval to proceed with an undertaking in accordance with subsection (1), the Minister shall consider,

Matters
to be
considered
by the
Minister

- (a) the purpose of this Act;
- (b) the environmental assessment of the undertaking as accepted by the Minister;
- (c) the submissions, if any, made to the Minister with respect to the environmental assessment.

(3) The Minister shall give notice, together with written reasons therefor, of his approval, approval subject to terms and conditions or refusal to give approval to proceed with the undertaking to the proponent, and in such manner as

Notice of
approval

the Minister considers suitable, to any person who has made a written submission to the Minister pursuant to subsection 7 (2) and to such other persons as the Minister considers necessary or advisable. 1975, c. 69, s. 14.

Proceedings
under other
Acts

15. An approval by the Minister pursuant to this Act to proceed with an undertaking does not preclude any proceeding in relation to a contravention of any provision of the *Environmental Protection Act*, the *Ontario Water Resources Act* or the regulations made under either of those Acts. 1975, c. 69, s. 15.

Effect of
approval

16.—(1) No person shall proceed with an undertaking contrary to any term or condition imposed by the Minister in giving approval to proceed with the undertaking.

Idem

(2) No person shall give, make, issue, interpret or apply any licence, permit, approval, permission, consent, loan, guarantee of repayment of a loan, grant or subsidy that is required in order to proceed with an undertaking contrary to any term or condition imposed by the Minister in giving approval to proceed with the undertaking. 1975, c. 69, s. 16.

Where
proponent
proposes
to change
undertaking

17. Where a proponent of an undertaking proposes to make a change in the undertaking,

- (a) before the Minister has given approval to proceed with the undertaking, that does not conform to the environmental assessment of the undertaking as accepted by the Minister; or
- (b) after the Minister has given approval to proceed with the undertaking, that does not conform to any term or condition imposed upon the approval to proceed with the undertaking,

this Act applies to the proposal to make the change in the undertaking as though the proposed change were itself an undertaking to which this Act applies. 1975, c. 69, s. 17.

PART III

ENVIRONMENTAL ASSESSMENT BOARD

Composition
of Board

18.—(1) The board known as the Environmental Assessment Board is continued and shall be composed of not fewer than five persons who shall be appointed by the Lieutenant Governor in Council and shall not be employed in the public service of Ontario in the employ of any ministry.

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Chairman
and vice-
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, a vice-chairman shall act as and have all the powers of the chairman and, in the absence of the chairman and vice-chairman or vice-chairmen from any meeting of the Board, the members of the Board present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

Acting
chairman

(4) The members of the Board, other than the chairman, shall be appointed for a term of one, two or three years so that as nearly as possible one-third of the members, other than the chairman, shall retire each year.

Term of
members

(5) The chairman of the Board shall be appointed to hold office during pleasure.

Term of
chairman

(6) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

Vacancies

(7) Three members of the Board constitute a quorum.

Quorum

(8) Such employees as are necessary to carry out the duties of the Board shall be appointed under the *Public Service Act*.

Employees
R.S.O. 1980,
c. 418

(9) The Board may appoint from time to time one or more persons having technical or special knowledge of any matter to inquire into and report to the Board and to assist the Board in any capacity in respect of any matter before it.

Expert
assistance

(10) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

Remunera-
tion

(11) The powers of the Board shall be exercised by resolution and the Board may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Board and generally dealing with the carrying out of its function.

Exercise
of powers

(12) The Board may determine its own practice and procedure in relation to hearings and may, subject to section 28 of the *Statutory Powers Procedure Act* and

Practice
and
procedure
R.S.O. 1980,
c. 484

the approval of the Lieutenant Governor in Council, make rules governing such practice and procedure and the exercise of its powers in relation thereto and prescribe such forms as are considered advisable.

Conduct of
hearings by
less than
quorum

(13) The chairman may, in writing, authorize less than a quorum of the Board to conduct a hearing and the member or members conducting the hearing shall have all the powers of the Board for the purposes of the hearing.

Only
members at
hearing to
participate
in decision

(14) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Board may
appoint class
representative

(15) For the purpose of proceedings before the Board, the Board may appoint from among a class of parties to the proceedings having, in the opinion of the Board, a common interest, a person to represent that class in the proceedings, but any other member of the class for which such appointment was made may, with the consent of the Board, take part in the proceedings notwithstanding the appointment.

Minister
entitled to
take part in
proceedings

(16) The Minister is entitled, by counsel or otherwise, to take part in proceedings before the Board.

Giving of
decision

(17) The Board shall give a copy of its decision together with written reasons therefor to the Minister, to the parties, or where an appointment has been made pursuant to subsection (15), to the appointee on behalf of the class, and to such other persons as have made written submissions pursuant to subsection 7 (2) and to the clerk of each municipality in which the undertaking is being or will be carried out.

When
decision is
effective

(18) No decision of the Board is effective until it becomes final pursuant to section 23.

Decisions,
etc., of
Board not
subject to
review

(19) No decision, order, direction, resolution or ruling of the Board shall be questioned or reviewed in any court and no proceeding shall be taken in any court by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, application for judicial review, *quo warranto*, or otherwise to question, review, prohibit or restrain the Board or any of its decisions, orders, directions, resolutions or rulings.

Application of
R.S.O. 1980,
c. 484

(20) Except as otherwise provided in this Act, the *Statutory Powers Procedure Act* applies to the proceedings of the Board. 1975, c. 69, s. 18.

19. A hearing conducted by the Board or a member or members of the Board shall be open to the public except where the Board or the member or members of the Board conducting the hearing is or are of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case, the Board or the member or members of the Board conducting the hearing may hold the hearing concerning any such matters *in camera*. 1975, c. 69, s. 19.

Hearings
to be
public,
exceptions

20. Any decision of the Board that becomes final pursuant to section 23 shall be deemed to be the decision of the Minister or of the Minister with the approval required by section 14. 1975, c. 69, s. 20.

Effect of
decision of
Board

21. No member, employee or appointee of the Board shall be required to give testimony in any proceeding with regard to information obtained by him in the discharge of his duties as a member, employee or appointee of the Board. 1975, c. 69, s. 21.

Testimony
by member,
employee or
appointee
of Board

22. For the purposes relevant to the subject-matter of a hearing, the Board, its employees and appointees may enter and inspect any land or premises other than a dwelling on any reasonable time. 1975, c. 69, s. 23.

Inspection
of premises

23.—(1) Within twenty-eight days after receipt by the Minister of a decision of the Board on any matter referred to it by notice of the Minister pursuant to subsection 12 (2) or section 13 or made pursuant to clause (c), or within such longer period as may be determined by the Minister within such twenty-eight day period, the Minister, with the approval of the Lieutenant Governor in Council or such ministers of the Crown as the Lieutenant Governor in Council may designate, may,

Variation or
rescission of
decisions

- (a) vary the whole or any part of the decision;
- (b) substitute for the decision of the Board, such decision as he considers appropriate; or
- (c) by notice to the Board require the Board to hold a new hearing of the whole or any part of the matter referred to the Board by the notice of the Minister and reconsider its decision.

Idem

(2) Subject to subsection (3), a decision of the Board is final after the expiration of the period or periods mentioned in subsection (1) unless, pursuant to subsection (1), the decision is varied or a decision is substituted for the decision of the Board or a new hearing is required.

Idem

(3) A decision of the Board that has been varied pursuant to clause (1) (a) or a decision that has been substituted for the decision of the Board pursuant to clause (1) (b), is final.

Idem

(4) The Minister shall give notice, together with written reasons therefor, of any variation, substitution or requirement of a new hearing pursuant to subsection (1), to every person entitled to receive a copy of the decision of the Board pursuant to subsection 18 (17). 1975, c. 69, s. 24.

PART IV

PROVINCIAL OFFICERS

Designation
of provincial
officers

24.—(1) The Minister may designate in writing one or more employees of the Ministry or other persons as provincial officers for the purposes of any section or Part of this Act or any regulation or section of any regulation made under this Act that is referred to in the designation and in a designation may limit the authority of a provincial officer in such manner as the Minister considers necessary or advisable.

Certificate of
designation

(2) The Minister shall issue to every provincial officer a certificate of his designation and every provincial officer, in the execution of his duties under this Act and the regulations, shall produce his certificate of designation upon request. 1975, c. 69, s. 25.

Powers of
provincial
officer

25.—(1) Where a provincial officer has reasonable grounds for believing that it is necessary, for the purpose of the administration of this Act and the regulations, he may, upon production of his certificate of designation, enter at any reasonable time any building, other than a dwelling, or any structure, machine, vehicle, land, water or air and make or require to be made such surveys, examinations, investigations, tests and inquiries, as he considers necessary for such purpose, including examinations of books, records and documents and may make, take and remove or may require to be made, taken or removed samples, copies or extracts.

(2) Where a justice of the peace is satisfied, upon an *ex parte* application by a provincial officer, that there is reasonable ground for believing that it is necessary to enter any building, including a dwelling, structure, machine, vehicle, land, water or air for the administration of this Act or the regulations, the justice of the peace may issue an order authorizing a provincial officer to enter therein or thereon and to make or require to be made such surveys, examinations, investigations, tests and inquiries and to take the other actions mentioned in subsection (1) but every such entry, survey, examination, investigation, test, inquiry and other such action shall be made or taken between sunrise and sunset unless the justice of the peace authorizes the provincial officer, by the order, to so act at another time. 1975, c. 69, s. 26.

26. No person shall hinder or obstruct a provincial officer in the lawful performance of his duties or knowingly furnish a provincial officer with false information or refuse to furnish him with information required for the purposes of this Act and the regulations. 1975, c. 69, s. 27.

27.—(1) Every provincial officer shall preserve secrecy in respect of all matters that come to his knowledge in the course of any survey, examination, test or inquiry under this Act or the regulations and shall not communicate any such matter to any person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) Except in a proceeding under this Act or the regulations, no provincial officer shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of any survey, examination, test or inquiry under this Act or the regulations. 1975, c. 69, s. 28.

PART V

ADMINISTRATION

28. The Minister, in addition to any other remedy and to any penalty imposed by law, may apply to the Divisional Court for an order,

- (a) enjoining any act to proceed with an undertaking contrary to this Act; or
- (b) invalidating any licence, permit, approval, permission or consent, issued or granted contrary to subsection 6 (1),

and the court may make the order on such terms and conditions as the court considers proper. 1975, c. 69, s. 29.

Exemption

29. Where the Minister is of the opinion that it is in the public interest, having regard to the purpose of this Act and weighing the same against the injury, damage or interference that might be caused to any person or property by the application of this Act to any undertaking, the Minister, with the approval of the Lieutenant Governor in Council or of such Ministers of the Crown as the Lieutenant Governor in Council may designate, may by order,

- (a) exempt the undertaking or the proponent of the undertaking from the application of this Act or the regulations or any matter or matters provided for in this Act or the regulations subject to such terms and conditions as the Minister may impose;
- (b) suspend or revoke an exemption referred to in clause (a);
- (c) alter or revoke any term or condition of an exemption referred to in clause (a). 1975, c. 69, s. 30.

Disclosure

30. Notwithstanding any other provision of this Act, where the Minister is of the opinion that compliance with any provision of this Act is causing, will cause or will likely cause the disclosure of matters that are of such a nature that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of disclosing such matters to the public, the Minister may make such order for the protection of such person or the public interest as he considers necessary or advisable. 1975, c. 69, s. 31.

Record

31.—(1) The Minister shall cause to be maintained a record of every undertaking in respect of which an environmental assessment has been submitted under this Act that, subject to any order of the Minister pursuant to section 30, shall consist of the environmental assessment, the review

of the environmental assessment that the Minister caused to be prepared, any written submissions, any decision of the Board or the Minister together with written reasons therefor, if any, made under this Act, any notice under section 9, subsection 10 (2), subsection 14 (3), subsection 23 (4) and section 38 and any order of the Minister pursuant to this Act together with the written reasons, if any, therefor.

(2) The Minister shall, upon the request of any person, ^{Inspection} make available for the inspection of such person any record referred to in subsection (1) including any document forming part of the record as soon as practicable after issuance or receipt of the document. 1975, c. 69, s. 32.

32. The Minister, for the purposes of the administration ^{Powers and} and enforcement of this Act and the regulations may, ^{duties of} ^{Minister}

- (a) conduct research with respect to the environment or environmental assessments;
- (b) conduct studies of the quality of the environment;
- (c) conduct studies of environmental planning or environmental assessments designed to lead to the wise use of the environment by man;
- (d) convene conferences and conduct seminars and educational and training programs with respect to the environment or environmental assessments;
- (e) gather, publish and disseminate information with respect to the environment or environmental assessments;
- (f) make grants and loans for research or the training of persons with respect to the environment or environmental assessments in such amounts and upon such terms and conditions as the Minister, subject to the approval of the Lieutenant Governor in Council, may determine;
- (g) appoint committees to perform such advisory functions as the Minister considers advisable;
- (h) make such investigations, surveys, examinations, tests and other arrangements as he considers necessary; and

- (i) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person with respect to the environment or environmental assessments. 1975, c. 69, s. 33.

Protection
from
personal
liability

R.S.O. 1980,
c. 418

33.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise lies or shall be instituted against an employee of the Ministry, a member of the Board or a Crown employee within the meaning of the *Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Ministry, or such member or provincial officer, for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Crown not
relieved of
liability

R.S.O. 1980,
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1975, c. 69, s. 34.

Hearings
under
other
Acts

R.S.O. 1980,
cc. 141, 361

34. Where a proponent is required under this Act not to proceed with an undertaking until an environmental assessment of the undertaking has been accepted by the Minister and a public hearing is required or permitted under the *Environmental Protection Act* or the *Ontario Water Resources Act* other than by the Environmental Appeal Board or the Ontario Municipal Board with respect to the undertaking, the Minister shall order,

- (a) that the public hearing under such other Act may be proceeded with and that this Act or the regulations or any matter or matters provided for in this Act or the regulations that is specified in the order does not apply to the undertaking or proponent; or
- (b) that this Act applies to the undertaking and proponent and the public hearing under such other Act shall be deemed not to be required or permitted. 1975, c. 69, s. 35.

False
information

35. No person shall knowingly give false information in any application, return or statement made to the Minister, the Board, an employee or appointee of the

Board, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations. 1975, c. 69, s. 36.

36. In any prosecution, proceeding or hearing under this Act or the regulations, the production of, Certificates,
etc., as
evidence

- (a) a certificate or report of an analyst in the employ of the Crown in right of Ontario designated by the Minister as to the analysis, ingredients, quality, quantity or temperature of any material, whether solid, liquid or gas or any combination of them; or
- (b) any document under this Act purporting to be signed by the Minister or by or for the Board, or any certified copy thereof,

is *prima facie* proof of the facts stated therein and of the authority of the person making the document without any proof of appointment or signature. 1975, c. 69, s. 37.

37.—(1) Any notice, order, approval or other document under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is to be made at the latest address appearing on the records of the Ministry. Service

(2) A notice,

Notice to
clerk of
municipality

- (a) given by the Minister pursuant to section 9, section 10 or subsection 14 (3);
- (b) given by the Board pursuant to subsection 12 (3);
or
- (c) of the order of the Minister pursuant to section 11,

shall be given to the clerk of each municipality in which the undertaking is being or will be carried out.

(3) Where notice is given or service is made by registered mail, the giving or service shall be deemed to be made on the seventh day after the day of mailing unless the person to whom notice is given or on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice, order, approval or other document until a later date. Idem

Public
notice

(4) Where the Minister or the Board is of the opinion that because the persons who are to be given any notice or document under this Act are so numerous, or for any other reason it is impracticable to give the notice or document to all or any of the persons individually, the Minister or the Board, as the case may be, may instead of doing so, cause the notice or reasonable notice of the contents of the document to be given to the persons by public advertisement or otherwise as the Minister or the Board may direct, and the date on which such notice or reasonable notice of the contents of the document is first published or otherwise given as directed, shall be deemed to be the date on which the notice or document is given.

Inspection of
documents

(5) The making available by the Minister of a copy or reproduction made by any means of a document is compliance with the provisions of this Act authorizing the inspection of the document.

Destruction
of certain
documents

(6) Notwithstanding any provision of this Act, a document may be destroyed by or under the authority of the Minister when it has been completely recorded or copied and the recording or copy is retained for the purpose of inspection under this section. 1975, c. 69, s. 38.

Where
notice
to be
given to
Minister

38. Where a proponent of an undertaking in respect of which an environmental assessment has been accepted by the Minister and for which approval to proceed has been given by the Minister receives notice of any fact, situation, event, order, proceeding or application the result of which or compliance with which has affected, affects or may affect the ability of the proponent to proceed with the undertaking in accordance with any term or condition to which the approval of the Minister to proceed with the undertaking is subject, the proponent shall forthwith give notice thereof to the Minister. 1975, c. 69, s. 39.

Offence

39. Every person, whether as principal or agent, or an employee of either of them, who contravenes any provision of this Act or the regulations or fails to comply with an order or a term or condition of an approval issued or given under this Act is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$5,000 and on a subsequent conviction to a fine of not more than \$10,000 for every day or part thereof upon which the offence occurs or continues. 1975, c. 69, s. 40.

PART VI

REGULATIONS

40. The Lieutenant Governor in Council may make regulations, Regulations

- (a) defining any enterprise or activity as a major commercial or business enterprise or activity;
- (b) defining enterprises or activities as classes of major commercial or business enterprises or activities;
- (c) defining any body other than a municipality as a public body;
- (d) designating any major commercial or business enterprise or activity or class of major commercial or business enterprises or activities as an undertaking or class of undertakings to which this Act applies;
- (e) designating any proposal, plan or program or any class of proposals, plans or programs in respect of any major commercial or business enterprise or activity or any class of major commercial or business enterprises or activities as an undertaking or class of undertakings to which this Act applies;
- (f) exempting any person, class of persons, undertaking or class of undertakings from the provisions of this Act, the regulations or any section or part of a section thereof and designating any enterprise or activity or class of enterprises or activities or any proposal, plan or program or any class of proposals, plans or programs in respect of any of them by or on behalf of Her Majesty in right of Ontario, by a public body or public bodies or by a municipality or municipalities as an undertaking or class of undertakings to which this Act applies notwithstanding any exemption under this clause;
- (g) prescribing additional information that shall be contained in environmental assessments submitted to the Minister;
- (h) prescribing forms for the purposes of this Act and providing for their use. 1975, c. 69, s. 41.

41. A class of undertakings under this Act or the regulations may be defined with respect to any attribute, quality Class of undertakings

or characteristic or combination thereof and may be defined to include any number of undertakings under one ownership or more than one ownership and whether or not of the same type or with the same attributes, qualities or characteristics. 1975, c. 69, s. 42.

Scope of
regulations

42. Any regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any place from the application of the regulation. 1975, c. 69, s. 43.

Adoption of
codes in
regulations

43. Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, standard or procedure so adopted. 1975, c. 69, s. 44.

Application
of
regulations

44.—(1) A regulation is not effective with respect to an enterprise or activity that is commenced before the regulation comes into force.

Idem

(2) Notwithstanding subsection (1), a regulation is effective with respect to,

- (a) any major commercial or business enterprise or activity that is commenced after the coming into force of this Act and that is being carried on or is not completed when the regulation comes into force;
- (b) a significant change made in any major commercial or business enterprise or activity after the coming into force of this Act and that is being carried on or is not completed before the regulation comes into force; or
- (c) any proposal, plan or program in respect of any major commercial or business enterprise or activity or any class of major commercial or business enterprises or activities proposed or made before the coming into force of the regulation whether the proposal, plan or program is proposed or made before or after the coming into force of this Act.

Idem

(3) Notwithstanding subsection (1), a regulation made under clause 40 (f) is effective whether the enterprise or activity, or class of enterprises or activities, or proposal, plan or program or class of proposals, plans or programs in respect of any of them is commenced, carried on, made or proposed before or after the coming into force of this Act. 1975, c. 69, s. 45.

CHAPTER 141

Environmental Protection Act

1.—(1) In this Act,

Interpre-
tation

(a) “air” means open air not enclosed in a building, structure, machine, chimney, stack or flue;

(b) “Board” means the Environmental Appeal Board;

(c) “contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of man that may,

(i) impair the quality of the natural environment for any use that can be made of it,

(ii) cause injury or damage to property or to plant or animal life,

(iii) cause harm or material discomfort to any person,

(iv) adversely affect the health or impair the safety of any person, or

(v) render any property or plant or animal life unfit for use by man;

(d) “Environmental Assessment Board” means the Environmental Assessment Board under the *Environmental Assessment Act*;

R.S.O. 1980,
c 140

(e) “land” means surface land not enclosed in a building, land covered by water and all subsoil, or any combination or part thereof;

(f) “local board” means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any

power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof;

- (g) "local municipality" means a city, town, village or township;
- (h) "Minister" means the Minister of the Environment;
- (i) "Ministry" means the Ministry of the Environment;
- (j) "municipality" means the corporation of a county, metropolitan area, regional area, district area, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes in an unorganized township or unsurveyed territory;
- (k) "natural environment" means the air, land and water, or any combination or part thereof, of the Province of Ontario;
- (l) "person" includes a municipality, a corporation on behalf of Her Majesty in right of Ontario, and an agent of any of them;
- (m) "person responsible" means the owner, or the person in occupation or having the charge, management or control of a source of contaminant;
- (n) "provincial officer" means a person who is designated by the Minister as a provincial officer for the purposes of this Act and the regulations;
- (o) "regulations" means the regulations made under this Act;
- (p) "source of contaminant" means anything that adds to, emits or discharges into the natural environment any contaminant;
- (q) "water" means surface water and ground water, or either of them. 1971, c. 86, s. 1; 1972, c. 1, ss. 1, 69 (1); 1972, c. 106, s. 1; 1974, c. 125, s. 1; 1975, c. 70, s. 1.

PART I

ADMINISTRATION

2. The purpose of this Act is to provide for the protection and conservation of the natural environment. 1971, c. 86, s. 2.

Purpose
of Act

3. The Minister, for the purposes of the administration and enforcement of this Act and the regulations, may,

Powers and
duties of
Minister

- (a) investigate problems of pollution, waste management, waste disposal, litter management and litter disposal;
- (b) conduct research related to contaminants, pollution, waste management, waste disposal, litter management and litter disposal;
- (c) conduct studies of the quality of the natural environment, meteorological studies, and monitoring programs;
- (d) conduct studies of environmental planning designed to lead to the wise use of the natural environment by man;
- (e) convene conferences and conduct seminars and educational and training programs relating to contaminants, pollution, waste and litter;
- (f) gather, publish and disseminate information relating to contaminants, pollution, waste and litter;
- (g) make grants and loans for,
 - (i) research or the training of persons relating to contaminants, pollution, waste or litter, and
 - (ii) the development of waste management facilities,in such amounts and upon such terms and conditions as the regulations may prescribe;
- (h) establish and operate demonstration and experimental waste management systems, litter disposal sites and sewage systems under Part VII;
- (i) appoint committees to perform such advisory functions as the Minister considers advisable; and
- (j) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person relating to the protection or conservation of the natural environment. 1971, c. 86, s. 3; 1973, c. 94, s. 1.

Appointment
of Directors

4.—(1) The Minister shall appoint in writing such employees of the Ministry as he considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments.

Limitation
of authority
of Director

(2) The Minister, in an appointment pursuant to subsection (1), may limit the authority of a Director in such manner as the Minister considers necessary or advisable. 1974, c. 20, s. 2.

PART II

GENERAL PROVISIONS

Prohibition

5.—(1) No person shall deposit in, add to, emit or discharge into the natural environment any contaminant, and no person responsible for a source of contaminant shall permit the addition to, emission or discharge into the natural environment of any contaminant from the source of contaminant, in an amount, concentration or level in excess of that prescribed by the regulations.

Exception

(2) Subsection (1) does not apply to animal wastes disposed of in accordance with normal farming practices. 1971, c. 86, s. 5.

Control
orders

6. When the report of a provincial officer, filed as provided by section 126, contains a finding that a contaminant added to, emitted or discharged into any part of the natural environment by any person or from any source of contaminant exceeds the maximum permissible amount, concentration or level prescribed by the regulations, contravenes section 13 or is a contaminant the use of which is prohibited by the regulations, the Director may issue a control order directed to the person responsible therefor. 1971, c. 86, s. 6.

Stop
orders

7. When the Director, upon reasonable and probable grounds, is of the opinion that a source of contaminant is adding to, emitting or discharging into the natural environment any contaminant that constitutes, or the amount, concentration or level of which constitutes, an immediate danger to human life, the health of any persons, or to property, the Director may issue a stop order directed to the person responsible for the source of contaminant. 1971, c. 86, s. 7.

Approval
of Director

8.—(1) No person shall,

(a) construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or

thing that may emit or discharge or from which may be emitted or discharged a contaminant into any part of the natural environment other than water; or

- (b) alter a process or rate of production with the result that a contaminant may be emitted or discharged into any part of the natural environment other than water or the rate or manner of emission or discharge of a contaminant into any part of the natural environment other than water may be altered,

unless he has first obtained a certificate of approval issued by the Director for the methods or devices or both to be employed to control or prevent the emission or discharge of any contaminant into any part of the natural environment other than water. 1972, c. 106, s. 2, *part*; 1974, c. 20, s. 4.

(2) The Director may require an applicant for a certificate of approval under subsection (1) to submit any plans, specifications and other information and to carry out and report on any tests or experiments relating to the plant, structure, equipment, apparatus, mechanism or thing or to the methods and devices to be employed to control or prevent the emission or discharge of any contaminant into any part of the natural environment other than water and, subject to subsection (4), the Director may issue a certificate of approval.

Director
may require
material

(3) Subsection (1) does not apply to,

Exceptions

- (a) routine maintenance carried out on any plant, structure, equipment, apparatus, mechanism or thing;
- (b) equipment for the combustion of fuel, other than waste incinerators, in buildings or structures designed for the housing of not more than three families;
- (c) any equipment, apparatus, mechanism or thing in or used in connection with a building or structure designed for the housing of not more than three families where such equipment, apparatus, mechanism or thing may produce sound or vibration;
- (d) any plant, structure, equipment, apparatus, mechanism or thing that may be a source of contaminant of a class exempted therefrom by the regulations;
- (e) any plant, structure, equipment, apparatus, mechanism or thing used in agriculture;

- (f) any motor or motor vehicle that is subject to the provisions of Part III.

Powers of
Director

(4) The Director may refuse to issue a certificate of approval or may issue a certificate of approval on such terms and conditions or alter any terms and conditions in a certificate of approval as he considers necessary,

- (a) to ensure that any construction, alteration, extension or replacement that is referred to in clause (1) (a) or that any alteration of a process or rate of production that is referred to in clause (1) (b), or the methods or devices or both employed to control or prevent the emission or discharge of any contaminant into any part of the natural environment other than water, will result in compliance with this Act and the regulations and any order or approval thereunder;

- (b) on probable grounds, to prevent or alleviate a nuisance, a hazard to the health or safety of any person or impairment of the quality of the natural environment for any use that can be made of it.
1972, c. 106, s. 2, *part.*

Submission
of program

9.—(1) A person responsible for a source of contaminant may submit to the Director a program to prevent or to reduce and control the addition to, emission or discharge into the natural environment of any contaminant from the source of contaminant.

Referral of
program

(2) When a program referred to in subsection (1) is submitted to the Director, the Director may, with the consent of the Minister, refer the program to the Environmental Council for its consideration and advice.

Approval of
program

(3) The Director may issue an approval to be known as a "program approval", directed to the person who submitted the program. 1971, c. 86, s. 10.

Contents of
approval

10. The Director shall, in a program approval,

- (a) set out the name of the person to whom the approval is directed;
- (b) set out the location and nature of the source of contaminant;

- (c) set out the details of the program; and
- (d) approve the program. 1971, c. 86, s. 11.

11. Notwithstanding the issue of a program approval, when the Director is of the opinion, based upon reasonable and probable grounds, that it is necessary or advisable for the protection or conservation of the natural environment, the prevention or control of an immediate danger to human life, the health of any persons or to property, the Director may issue a stop order or a control order directed to the person responsible. 1971, c. 86, s. 12.

Approval
not to
prevent
control or
stop order

12.—(1) Every person who,

- (a) deposits in, adds to, emits or discharges into the natural environment; or
- (b) is the person responsible for a source of contaminant that deposits in, adds to, emits or discharges into the natural environment,

Ministry
to be
notified
when
contamina-
tion exceeds
permitted
level

any contaminant in an amount, concentration or level in excess of that prescribed by the regulations shall forthwith notify the Ministry of the deposit, addition, emission or discharge, as the case may be.

(2) Subsection (1) does not apply to animal wastes disposed of in accordance with normal farming practices. 1971, c. 86, s. 13; 1972, c. 1, s. 1.

Exception

13.—(1) Notwithstanding any other provision of this Act or the regulations, no person shall deposit, add, emit or discharge a contaminant or cause or permit the deposit, addition, emission or discharge of a contaminant into the natural environment that,

Prohibition

- (a) causes or is likely to cause impairment of the quality of the natural environment for any use that can be made of it;
- (b) causes or is likely to cause injury or damage to property or to plant or animal life;
- (c) causes or is likely to cause harm or material discomfort to any person;
- (d) adversely affects or is likely to adversely affect the health of any person;

(e) impairs or is likely to impair the safety of any person; or

(f) renders or is likely to render any property or plant or animal life unfit for use by man. 1972, c. 106, s. 3.

Exception

(2) Clause (1) (a) does not apply to animal wastes disposed of in accordance with normal farming practices. 1971, c. 86, s. 14 (2).

**When
Ministry
to be
notified**

14.—(1) Every person who deposits, adds, emits or discharges a contaminant or causes or permits the deposit, addition, emission or discharge of a contaminant into the natural environment out of the normal course of events that,

(a) causes or is likely to cause impairment of the quality of the natural environment for any use that can be made of it;

(b) causes or is likely to cause injury or damage to property or to plant or animal life;

(c) causes or is likely to cause harm or material discomfort to any person;

(d) adversely affects or is likely to adversely affect the health of any person;

(e) impairs or is likely to impair the safety of any person; or

(f) renders or is likely to render any property or plant or animal life unfit for use by man,

shall forthwith notify the Ministry. 1972, c. 106, s. 4.

Exception

(2) Subsection (1) does not apply to animal wastes disposed of in accordance with normal farming practices. 1971, c. 86, s. 15 (2).

Repeal

(3) Subsections (1) and (2) are repealed on a day to be named by proclamation of the Lieutenant Governor. 1979, c. 91, s. 6.

**Application
of Part not
restricted**

15. Unless otherwise required by the context, the provisions of this Part also apply to the subject-matter of the individual Parts of this Act. 1971, c. 86, s. 16.

**Minister may
order repair
of damage**

16. Where any person causes or permits the deposit, addition, emission or discharge into the natural environment of a contaminant that injures or damages land, water, property or plant life, the Minister, where he is of the opinion that it is in

the public interest so to do, may order such person to do all things and take all steps necessary to repair the injury or damage. 1971, c. 86, s. 17.

17. When, in the opinion of the Director, based upon reasonable and probable grounds, it is necessary or advisable for the protection or conservation of the natural environment to do so, the Director may, by an order directed to any person, require that person to have on hand and available at all times such equipment and material as the order specifies to alleviate the effect of any contamination of the natural environment that may be caused or permitted by the person to whom the order is directed. 1971, c. 86, s. 18.

Equipment to alleviate effect of contaminant

18.—(1) An order or approval of the Minister or the Director under this Act is binding upon the successor or assignee of the person to whom it is directed.

Order or approval binds successor or assignee

(2) The Ministry shall maintain an alphabetical index record of the names of all persons to whom orders or approvals are directed under this Act.

Index record

(3) When an order or approval has expired or is revoked, the Ministry shall remove from the index record the name of the person to whom the order or approval is directed.

Removal of name from index record

(4) The Ministry shall, upon the request of any person, make a search of the index record and inform the person making the request as to whether or not the name of a particular person appears in the index record and shall permit inspection of any order or approval relating to that person. 1971, c. 86, s. 19; 1972, c. 1, s. 1.

Search of index record

19. The provisions of this Act are binding upon the Crown. 1971, c. 86, s. 20.

The Crown

PART III

MOTORS AND MOTOR VEHICLES

20. In this Part,

Interpretation

(a) “motor” means an internal combustion engine;

(b) “motor vehicle” means a vehicle that uses or incorporates a motor as a source of power. 1971, c. 86, s. 22; 1974, c. 20, s. 5.

Sale of motor vehicle that does not comply with regulations

21.—(1) No person shall sell, offer or expose for sale, a motor or motor vehicle that does not comply with the regulations.

Where system or device installed on motor vehicle

(2) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle, a system or device to prevent or lessen the emission of any contaminant, no person shall sell, offer or expose for sale, such motor or motor vehicle unless the motor or motor vehicle has such system or device so installed, attached or incorporated and such system or device, when the motor or motor vehicle is operating, complies with the regulations.

Repair or replacement of system or device

(3) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle, a system or device to prevent or lessen the emission of any contaminant, no person shall remove or cause or permit the removal of such system or device from such motor or motor vehicle, except for repair of such system or device or for replacement of such system or device by a system or device of the same type. 1973, c. 94, s. 2, *part*.

Operation of motor or motor vehicle

22.—(1) Except where necessary for test or repair purposes, no person shall operate or cause or permit the operation of a motor or motor vehicle or any class or type thereof that does not comply with the regulations.

Where system or device required

(2) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle a system or device to prevent or lessen the emission of any contaminant, the owner of such motor or motor vehicle shall not operate or cause or permit the operation of such motor or motor vehicle nor shall any person knowingly operate or cause or permit its operation unless such motor or motor vehicle has installed on, attached to or incorporated in it such system or device, and such system or device operates in accordance with the regulations when the motor or motor vehicle is in operation. 1973, c. 94, s. 2, *part*.

PART IV

WATER

Interpretation

23.—(1) In this section,

(a) "ice shelter" means any structure that is located on or over ice over any water for more than one day and

that is or may be used for shelter, privacy or the storage or sale of any thing;

(b) "owner", when used in relation to an ice shelter, includes a person who has the right to use or occupy the ice shelter;

(c) "waste" means human excrement or any refuse that is discharged or deposited in or from an ice shelter.

(2) No person shall discharge or deposit or cause or permit to be discharged or deposited any waste upon or over the ice over any water except in accordance with the regulations. Discharge or deposit of waste prohibited

(3) Except as provided in subsection (4), where an ice shelter is placed or allowed to remain on ice over any water in contravention of any provision of the regulations, a provincial officer may remove the ice shelter or cause it to be removed, Removal of ice shelter by provincial officer

(a) where the provincial officer is able to determine the name and address of the owner, after service of notice upon the owner at least seven days before the date of the removal; or

(b) where the provincial officer is unable to determine the name and address of the owner, forthwith.

(4) Where an ice shelter is placed or allowed to remain on ice over any water beyond the dates prescribed by the regulations within which ice shelters may be placed, allowed to remain or used on or over ice over any water, a provincial officer may remove the ice shelter or cause it to be removed without serving prior notice upon the owner, but where the provincial officer is able to determine the name and address of the owner, notice of the removal shall be served upon the owner forthwith after the removal. Idem, out of season

(5) Except where an ice shelter has been destroyed in the course of removal, the owner of an ice shelter that has been removed pursuant to subsection (3) or (4) may take possession of the ice shelter within thirty days of the removal or of service of the notice mentioned in subsection (3), whichever is later, or within thirty days after service of the notice mentioned in subsection (4), as the case requires, upon payment to the Treasurer of Ontario of the costs and charges for removal and storage of the ice shelter. Where owner may retake possession of ice shelter

(6) Where the owner of an ice shelter that has been removed pursuant to subsection (3) or (4) does not take possession of the ice shelter pursuant to subsection (5), Where provincial officer may dispose of ice shelter

- (a) a provincial officer may dispose of the ice shelter without compensation therefor; and
- (b) the owner is divested of ownership of the ice shelter and, where the ice shelter is disposed of to any person, such person shall acquire ownership of the ice shelter free from any right, title or interest of any other person.

Notice

(7) A notice under subsection (3) or (4) shall be in such form as the regulations may prescribe and shall state that the owner may take possession of the ice shelter pursuant to subsection (5) and that, if such owner does not so take possession, the ice shelter may be disposed of without compensation therefor and, where the ice shelter has been removed or caused to be removed pursuant to subsection (4) and has been damaged or destroyed in the course of the removal, the notice shall state the condition of the ice shelter.

Means of removal

(8) A provincial officer shall use due care in removing an ice shelter pursuant to subsection (3) or (4) but may use a means of removal that causes damage to or the destruction of the ice shelter if the use of the means of removal is necessary in order to carry out the removal.

Damage or destruction during removal

(9) Where an ice shelter is removed pursuant to subsection (3) or (4) and the means of removal that is necessary in the circumstances results in damage to or the destruction of the ice shelter, the owner of the ice shelter is not entitled to compensation for the damage or destruction. 1973, c. 94, s. 4, *part.*

PART V

WASTE MANAGEMENT

Interpretation

24. In this Part,

- (a) "operator" means the person in occupation or having the charge, management, or control of a waste management system or a waste disposal site;
- (b) "owner" includes,
 - (i) a person that is responsible for the establishment or operation of a waste management system or waste disposal site, or
 - (ii) the person that owns the land in or on which a waste disposal site is located;

- (c) "owner" in section 46, means a person that is responsible for the operation of a well that is a waste disposal site;
- (d) "waste" includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other wastes as are designated in the regulations;
- (e) "waste disposal site" means any land or land covered by water upon, into, in or through which, or building or structure in which, waste is deposited or processed and any machinery or equipment or operation required for the treatment or disposal of waste;
- (f) "waste management system" means all facilities, equipment and operations for the complete management of waste, including the collection, handling, transportation, storage, processing and disposal thereof, and may include one or more waste disposal sites. 1971, c. 86, s. 28; 1972, c. 1, s. 69 (2); 1972, c. 106, s. 5; 1974, c. 20, s. 10.

25. This Part does not apply to the storage or disposal by any person of his domestic wastes on his own property unless the Director is of the opinion, based upon reasonable and probable grounds, that such storage or disposal is or is likely to create a nuisance, or to any sewage or other works to which the *Ontario Water Resources Act* or the regulations thereunder apply. 1971, c. 86, s. 29; 1972, c. 106, s. 6.

Application
of Part

R.S.O. 1980,
c. 361

26. No waste management system that is in operation or waste disposal site that is in use when this Act comes into force shall be operated or used,

Certificate
of approval

- (a) after a certificate of approval has been refused; or
- (b) where a certificate of approval or provisional certificate of approval has been issued, except in accordance with the terms and conditions of such certificate. 1971, c. 86, s. 30.

27. No person shall use, operate, establish, alter, enlarge or extend,

New systems,
sites and
extensions

- (a) a waste management system; or
- (b) a waste disposal site,

unless a certificate of approval or provisional certificate of approval therefor has been issued by the Director and except

in accordance with any conditions set out in such certificate. 1971, c. 86, s. 31.

No money
by-law
without
certificate

28. No by-law for raising money to finance any work under section 27 shall be passed by the council of a municipality until a certificate of approval or a provisional certificate of approval has been issued therefor. 1971, c. 86, s. 32.

Report by
Minister

29. Where the Minister reports in writing to the clerk of a municipality that he is of the opinion that it is necessary in the public interest that waste be collected or a waste management system or any part thereof be established, maintained, operated, improved, extended, enlarged, altered, repaired or replaced, it is not necessary to obtain the assent of the electors to any by-law for incurring a debt for any such purpose, and the municipality shall forthwith do every possible act and thing in its power to implement the report of the Minister within the time specified. 1971, c. 86, s. 33.

When public
hearing
required

30.—(1) Where the Director receives an application for a certificate of approval for the use, operation, establishment, alteration, enlargement or extension of a waste disposal site for the disposal of hauled liquid industrial waste or hazardous waste as designated in the regulations or any other waste that the Director ascertains, having regard to the nature and quantity of the waste, is the equivalent of the domestic waste of not less than 1,500 persons, the Director shall, before issuing or refusing to issue the certificate of approval, hold a public hearing. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11.

Notice of
hearing

(2) At least fifteen days notice of the hearing shall be given to the clerk of the municipality in or into which it is proposed to use, operate, establish, alter, enlarge or extend the waste disposal site and to the owners or occupants of the lands adjoining the land upon or in which the waste disposal site is or is intended to be located and to such other persons and in such manner as the Director may direct and such notice shall be published once a week for three consecutive weeks in a newspaper having general circulation in the locality where the waste disposal site is or is intended to be located provided there is a newspaper having general circulation in the locality and published at least once a week. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11.

Where
emergency
situation
exists

31. Notwithstanding the provisions of section 30, where, in the opinion of the Director, an emergency situation exists by reason of,

(a) danger to the health or safety of any person;

- (b) impairment or immediate risk of impairment of the quality of the natural environment for any use that can be made of it; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life,

and the emergency situation will be alleviated by the use, operation, establishment, alteration, enlargement or extension of a waste disposal site, the Director may issue a certificate of approval therefor without holding a public hearing. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11.

32.—(1) Where the Director receives an application for a certificate of approval for the use, operation, establishment, alteration, extension or enlargement of,

Where public hearing may be held

- (a) a waste management system that does not include a waste disposal site referred to in section 30; or
- (b) a waste disposal site other than a waste disposal site referred to in section 30,

the Director may, before issuing or refusing to issue the certificate of approval, hold a public hearing. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11.

(2) Where a hearing is held under subsection (1), at least fifteen days notice shall be given to the clerk of the municipality in or into which it is proposed to use, operate, establish, alter, extend or enlarge the waste management system or waste disposal site and to the owners or occupants of the lands adjoining any land upon or in which the waste disposal site is located or is intended to be located and to such other persons and in such manner as the Director may direct. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11.

Notice of hearing

33.—(1) Where the Director is required or permitted to hold a hearing under this Act, he may by a notice in writing, and on such terms and conditions as he may direct, require the Environmental Assessment Board to hold the hearing. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11; 1975, c. 70, s. 2.

Director may require Environmental Assessment Board to hold public hearing

(2) Upon receipt of notice from the Director, the Environmental Assessment Board shall hold a public hearing with respect to the subject-matter of the notice and shall report thereon to the Director. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11; 1975, c. 70, s. 2.

When Environmental Assessment Board to hold public hearing

Procedure

R.S.O. 1980,
c. 140

(3) Except where otherwise provided in this Act and notwithstanding the requirement that a hearing be a public hearing, the provisions of Part III of the *Environmental Assessment Act*, apply where a hearing is required to be held under subsection (1) by the Environmental Assessment Board. 1975, c. 70, s. 3 (1).

Application

of
R.S.O. 1980,
c. 140

(4) Subsections 18 (12) and (14) to (20) and sections 20 and 23 of the *Environmental Assessment Act* do not apply where a hearing is required to be held under subsection (1) by the Environmental Assessment Board.

Hearings

(5) Where a hearing is required to be held under subsection (1) by the Environmental Assessment Board,

(a) the Board shall determine its own practice and procedure in relation to hearings and may, subject to the approval of the Lieutenant Governor in Council, make rules governing such practice and procedure and the exercise of its powers in relation thereto and prescribe such forms as are considered advisable;

(b) the member or members conducting a hearing shall prepare and submit to the Board a draft report of the Board referred to in clause (e) and, after notice of the purpose of the meeting has been given to all members of the Board, the Board shall consider the draft report at a meeting of the Board called for the purpose of preparing the report and the Board in preparing the report may,

(i) adopt the draft report,

(ii) adopt the draft report with such changes as the Board considers advisable, or

(iii) reject the draft report and take such other action for the purpose of preparing the report, including the holding of additional hearings, as the Board considers advisable;

(c) a hearing by the Board is for the purpose of making a report containing information and advice and the report is not in any way legally binding in any decision or determination that may be made;

(d) for the purposes of the exercise of any power or authority or the discharge of any duty by the

Board or any member or members thereof conducting a hearing, the Board, or such member or members, has or have the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the exercise of such power or authority and the discharge of such duty as if it were an inquiry under that Act; and

R.S.O. 1980,
c. 411

- (e) the report of the Board shall contain a summary of the information presented and the views expressed at the hearing and its recommendations in respect of the subject-matter of the hearing, together with its reasons therefor. 1975, c. 70, s. 3 (2).

(6) Where the Director requires the Environmental Assessment Board to hold a public hearing, the Director shall not issue or refuse to issue a certificate of approval until he has received and considered the report of the Environmental Assessment Board. 1972, c. 106, s. 7, *part*; 1974, c. 20, s. 11; 1975, c. 70, s. 2.

Director
to consider
report of
Environ-
mental
Assessment
Board

34. No certificate of approval shall be issued to an applicant other than a municipality unless the applicant has,

Condition
precedent
to issue of
certificate

- (a) deposited a sum of money; or
- (b) furnished a surety bond; or
- (c) furnished personal sureties,

in such amount and upon such conditions as the regulations prescribe to assure satisfactory maintenance of the waste management system or the waste disposal site or the removal of waste from the site if the Director considers such removal necessary. 1971, c. 86, s. 34.

35.—(1) Where a by-law of a municipality affects the location or operation of a proposed waste disposal site, the Minister, upon the application of the person applying for a certificate of approval for the waste disposal site, may, by a notice in writing, and on such terms and conditions as he may direct, require the Environmental Assessment Board to hold a public hearing to consider whether or not the by-law should apply to the proposed waste disposal site. 1972, c. 106, s. 8, *part*; 1975, c. 70, s. 2.

Hearing
as to
by-law

(2) Upon receipt of notice from the Minister, the Environmental Assessment Board shall hold a public hearing with respect to the subject-matter of the notice and shall

When
Environ-
mental
Assessment
Board to
hold public
hearing

report thereon to the Minister. 1972, c. 106, s. 8, *part*; 1975, c. 70, s. 2.

Procedure

R.S.O. 1980,
c. 140

(3) Except where otherwise provided in this Act and notwithstanding the requirement that a hearing be a public hearing, the provisions of Part III of the *Environmental Assessment Act* apply where a hearing is required to be held under subsection (1) by the Environmental Assessment Board. 1975, c. 70, s. 4 (1).

Application
of s. 33
(4, 5)

(4) The provisions of subsections 33 (4) and (5) apply where a hearing is required to be held under subsection (1) by the Environmental Assessment Board. 1975, c. 70, s. 4 (2).

**Parties and
procedure**

(5) Where the Minister requires a public hearing under subsection (1),

(a) the applicant, the municipality and any other person specified by the Environmental Assessment Board shall be given notice of the hearing in such manner as the Environmental Assessment Board directs; and

(b) the Environmental Assessment Board shall hold the public hearing within the municipality within which it is proposed to locate the waste disposal site. 1972, c. 106, s. 8, *part*; 1975, c. 70, s. 2.

Order

(6) The Minister, after receiving the report of the Environmental Assessment Board, may order that the by-law referred to in subsection (1) does not apply to the proposed waste disposal site and the by-law shall thereupon be deemed not to apply thereto. 1972, c. 106, s. 8, *part*; 1975, c. 70, s. 2.

**Return of
deposit**

36. The deposit mentioned in clause 34 (a) may be returned to the depositor upon such terms and conditions as the regulations prescribe. 1971, c. 86, s. 36.

**Information
to be
furnished**

37. An applicant for a certificate of approval shall submit to the Director plans and specifications of the work to be undertaken together with such other information as the Director may require. 1971, c. 86, s. 38.

**Powers of
Director**

38.—(1) The Director after considering an application for a certificate of approval, may issue a certificate of approval or provisional certificate of approval. 1971, c. 86, s. 39 (1); 1972, c. 106, s. 10 (1); 1974, c. 20, s. 13 (1).

Idem

(2) The Director may,

- (a) refuse to issue or renew;
- (b) suspend or revoke; or
- (c) impose, alter or revoke terms and conditions in,

a certificate of approval or provisional certificate of approval where,

- (d) the waste management system or the waste disposal site does not comply with this Act or the regulations; or
- (e) he considers, upon probable grounds, that the use, establishment, operation, alteration, enlargement or extension of the waste management system or the waste disposal site may create a nuisance, is not in the public interest or may result in a hazard to the health or safety of any person. 1972, c. 106, s. 10 (2); 1974, c. 20, s. 13 (2).

39. No person shall deposit waste upon, in, into or through any land or land covered by water or in any building that is not a waste disposal site for which a certificate of approval or a provisional certificate of approval has been issued and except in accordance with the terms and conditions of such certificate. 1971, c. 86, s. 40; 1972, c. 106, s. 11.

Prohibition
as to deposit
of waste

40. No person shall use any facilities or equipment for the storage, handling, treatment, collection, transportation, processing or disposal of waste that is not part of a waste management system for which a certificate of approval or a provisional certificate of approval has been issued and except in accordance with the terms and conditions of such certificate. 1971, c. 86, s. 41.

Prohibition
as to use of
facilities,
etc.

41.—(1) Where waste has been deposited upon, in, into or through any land or land covered by water or in any building that has not been approved as a waste disposal site, the Director may order the occupant or the person having charge and control of such land or building to remove the waste and to restore the site to a condition satisfactory to the Director. 1971, c. 86, s. 42 (1); 1972, c. 106, s. 12 (1); 1974, c. 20, s. 14.

Order for
removal of
waste

(2) Where a person to whom an order is directed under subsection (1) fails to comply with the order, the Director may cause the necessary work to be done and charge such person with the cost thereof, which may be recovered with costs in any court of competent jurisdiction. 1971, c. 86, s. 42 (2); 1972, c. 106, s. 12 (2); 1974, c. 20, s. 14.

Action upon
failure to
comply with
order

Order by
Director

42. Where a waste management system or a waste disposal site is not in conformity with this Part or the regulations, the Director may order the owner to take such action as he may require to bring the system or the site into conformity with this Part or the regulations within the time specified in the order. 1971, c. 86, s. 43; 1972, c. 106, s. 13; 1974, c. 20, s. 14.

Action upon
non-
compliance
with order

43. Where an owner fails to comply with an order under section 42, the Director may cause the necessary work to be done and charge the owner with the cost thereof which, in the case of an owner other than a municipality, may be deducted from the deposit mentioned in section 34, or may be recovered with costs in any court of competent jurisdiction. 1971, c. 86, s. 44; 1972, c. 106, s. 14; 1974, c. 20, s. 14.

Right to
compensation

44.—(1) Within thirty days after the receipt of notice that the Director has refused to renew or has suspended or revoked a certificate of approval, any owner who has suffered pecuniary loss as a result of such decision affecting his waste disposal site or waste management system may apply to the Director for compensation for such loss where such owner,

(a) has received a certificate of approval for the waste disposal site or waste management system affected by the Director's decision; and

(b) since receiving such certificate of approval, has strictly complied with this Act and the regulations. 1971, c. 86, s. 45 (1); 1972, c. 106, s. 15 (1); 1974, c. 20, s. 14.

Notice of
decision
and right
to appeal

(2) A notice of the decision of the Director in disposing of the application and a notice stating the right to an appeal under this section shall be served on the owner either personally or by registered mail addressed to the owner at his last known address. 1971, c. 86, s. 45 (2); 1972, c. 106, s. 15 (2); 1974, c. 20, s. 14.

Right to
appeal

(3) Within fifteen days after receipt of the notices referred to in subsection (2), the owner may by written notice received by the Ministry and the Board, appeal the amount of compensation, if any, to the Board, and such appeal shall be a hearing *de novo* and the Board may dismiss the appeal or alter the decision of the Director establishing the amount of the compensation, if any, and the decision of the Board shall be final. 1971, c. 86, s. 45 (3); 1972, c. 106, s. 15 (3); 1974, c. 20, s. 14.

(4) Where the Director or the Board, as the case may be, has established the amount of the compensation, if any, the Minister shall certify the amount thereof to the Treasurer of Ontario and the Treasurer shall pay such amount to the person entitled thereto out of the Consolidated Revenue Fund. 1971, c. 86, s. 45 (4); 1972, c. 106, s. 15 (4); 1974, c. 20, s. 14.

Payment of
compensation

45. No use shall be made of land or land covered by water which has been used for the disposal of waste within a period of twenty-five years from the year in which such land ceased to be so used unless the approval of the Minister for the proposed use has been given. 1971, c. 86, s. 46.

Former
disposal
sites

46.—(1) There shall be an account in the Consolidated Revenue Fund to be known as "The Waste Well Disposal Security Fund", referred to in this section as the "Fund", into which shall be paid the prescribed fees received under this Act.

Security
Fund

(2) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined from time to time by the Lieutenant Governor in Council, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the end of the previous calendar year.

Interest

(3) The owner of every well that is a waste disposal site shall pay a fee calculated upon the amount and type of waste disposed of in the well.

Owner of
waste
disposal
well to
pay fee

(4) The fee shall be paid to the Treasurer of Ontario for payment into the Fund.

Fee paid to
Treasurer

(5) The fee shall be at the rate or rates prescribed by the regulations, shall be paid upon the amount and type of waste disposed of in the well in each calendar year and shall be paid in advance in each calendar year. 1972, c. 106, s. 16, *part*.

Calculation
and payment
of fee

(6) The Director shall estimate the amount of the fee for each calendar year based upon the amount and type of waste disposed of in the well in the previous calendar year and where waste was not disposed of in the well in the previous calendar year the Director shall estimate the fee on the basis of the amount and type of waste that in his opinion will be disposed of in the well in the current calendar year and may revise such estimate at any time before payment of the

Estimate by
Director

estimated fee as required by subsection (7). 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Payment of
estimated
fee

(7) The estimated fee for each calendar year shall be paid within thirty days after receipt of the notice or revised notice by the owner of the well of the amount of the fee estimated by the Director. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Adjustment
of fee

(8) At the end of each calendar year, the Director shall calculate the amount of the fee for the year and,

- (a) where the fee estimated and paid for the year is less than the calculated fee, the Director shall add the difference to the estimated fee for the next calendar year or may, by a notice in writing, require the owner of the well to pay the difference forthwith to the Treasurer of Ontario; and
- (b) where the fee estimated and paid for the year is greater than the calculated fee, the Director shall deduct the difference from the estimated fee for the next calendar year or may certify to the Treasurer of Ontario the amount of such difference and the Treasurer shall pay such amount to the owner of the well. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Person
suffering
damage
to be
compensated

(9) Where the water in any well, lake, river, pond, spring, stream, reservoir or other water or watercourse that any person takes for ordinary household purposes or for the watering of live stock, poultry, home gardens or lawns, or for the watering or irrigation of crops grown for sale, is rendered unfit for such use by reason of the operation of any well that is a waste disposal site, the person is entitled to have compensation paid to him out of the Fund so far as the Fund is sufficient for that purpose, having regard to any other charges thereon, if he gives notice to the Director forthwith after becoming aware that the water has been rendered unfit and makes a claim therefor under subsection (10) within six months, or such longer period of time as may be determined by the Director, from the date that the Director received the notice that the water has been rendered unfit. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Claim for
compensation

(10) A person claiming to be entitled to compensation out of the Fund shall make application therefor to the Director in writing, setting out therein his full name and address and the particulars of his claim and shall furnish to the Director such additional information with respect to the subject-matter of the claim that the Director may require and that

is within his knowledge. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

(11) The Director shall investigate or cause an investigation to be made and shall determine whether there are reasonable grounds for believing that the water referred to in subsection (9) has been rendered unfit for any of the purposes set out therein and for which it was used and that it has been rendered unfit by the disposal of waste in any well that is a waste disposal site and in such case shall determine the amount of the claimant's reasonable and necessary expenses incurred in obtaining an alternate supply of water substantially equivalent in quantity and quality to such water. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Determination by Director

(12) The Director shall set out his determination in a certificate together with written reasons therefor and send a copy thereof to the claimant by registered mail at the address set out in the application. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Director's certificate

(13) The certificate of the Director is final at the end of thirty days from the date of mailing it to the claimant unless notice of appeal is served within that time. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

When certificate final

(14) The claimant may appeal to the Board at any time before the certificate of the director becomes final and the procedure thereon shall be the same as upon an appeal from an order of the Director under Part XI. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Appeal

(15) Where the Director has sent his certificate by registered mail to the claimant and the time for any appeal has expired or, where an appeal is taken, it is disposed of, and it is finally determined that the claimant is entitled to payment of compensation out of the Fund, the Director shall certify to the Treasurer of Ontario the sum found to be payable and the Treasurer shall pay such sum to the claimant out of the Fund. 1972, c. 106, s. 16, *part*; 1974, c. 20, s. 15.

Payment out of Fund

(16) Where a claimant who has received any payment out of the Fund recovers any moneys, directly or indirectly, from the owner of a well that is a waste disposal site, in respect of the expenses for which the payment was made out of the Fund, the claimant shall repay to the Treasurer of Ontario for credit to the Fund an amount equal to the payment out of the Fund or the moneys received from the

Recovery of money

owner of the well, whichever is the lesser, and such amount may be recovered with costs in any court of competent jurisdiction as a debt due to the Crown.

Recovery of
fees owing

(17) Any fee or any difference between the estimated fee and the calculated fee referred to in clause (8) (a) that is payable under this section may be recovered in any court of competent jurisdiction as a debt due to the Crown. 1972, c. 106, s. 16, *part*.

Offences

47. Every person or municipality that contravenes any provision of this Part or the regulations or fails to comply with an order made under section 41 or 42 or fails to comply with any term or condition of a certificate of approval or provisional certificate of approval is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for every day or part thereof upon which such offence occurs or continues. 1971, c. 86, s. 47; 1972, c. 106, s. 17.

PART VI

ABANDONED MOTOR VEHICLES

Interpre-
tation

48. In this Part,

(a) “abandoned motor vehicle” means a vehicle that has been left unattended without lawful authority and that appears to an officer, by reason of its age, appearance, mechanical condition or lack of number plates, to be abandoned;

(b) “abandoned motor vehicle site” means,

(i) a waste disposal site,

A. that is classified by the regulations as a derelict motor vehicle site,

B. that is not exempt under the regulations relating to Part V or Part VI, and

C. for which a certificate of approval or a provisional certificate of approval has been issued pursuant to Part V, or

(ii) any place that is approved in writing by the Director for the purpose of receiving and storing abandoned motor vehicles;

(c) “officer” means a provincial officer or a member of the Ontario Provincial Police Force or the police force in the area where an abandoned motor vehicle is found. 1973, c. 94, s. 5, *part*; 1974, c. 20, s. 16.

49. An officer may remove or cause to be removed an abandoned motor vehicle to an abandoned motor vehicle site. 1973, c. 94, s. 5, *part*. Removal of
abandoned
motor
vehicle

50. Where an officer has removed an abandoned motor vehicle to an abandoned motor vehicle site, the officer shall forthwith serve notice in writing of the removal on the owner of the vehicle at the latest address shown on the records of the Ministry of Transportation and Communications when the officer causes the records to be examined or on the records, if any, on or in the vehicle unless the name and address of the owner cannot be determined. 1973, c. 94, s. 5, *part*. Notice to
owner

51. A notice under section 50 shall,

Contents
of notice

(a) contain a description of,

- (i) the abandoned motor vehicle,
- (ii) the place from which and the abandoned motor vehicle site to which the abandoned motor vehicle was removed,
- (iii) the date of removal, and
- (iv) the identification of the officer who removed or caused the removal of the abandoned motor vehicle;

(b) state,

- (i) that if the abandoned motor vehicle is not claimed by the owner or any other person having a right or interest in the vehicle within thirty days from the date of service of the notice, the abandoned motor vehicle will be sold or otherwise disposed of by the person having the charge and control of the abandoned motor vehicle site, and

- (ii) that the owner shall forthwith upon receipt of the notice notify any person having a right or interest in the abandoned motor vehicle, of whom he has knowledge, of the receipt and contents of the notice of removal. 1973, c. 94, s. 5, *part.*

Where
owner
may retake
possession

52. The owner or any person having a right or interest in an abandoned motor vehicle may take possession of the abandoned motor vehicle within thirty days after the date of service of the notice referred to in section 50 or, where notice of removal has not been served, within thirty days after the date of removal of the vehicle on payment to the person having the charge and control of the abandoned motor vehicle site of all costs and charges, if any, for removal of the vehicle to and all costs and charges, if any, for storage of the vehicle at the abandoned motor vehicle site. 1973, c. 94, s. 5, *part.*

Disposal
of vehicle

53. Where an abandoned motor vehicle has not been claimed by the owner or any person having a right or interest in the abandoned motor vehicle pursuant to section 52, the person having the charge and control of the abandoned motor vehicle site shall sell or otherwise dispose of the vehicle and shall apply the proceeds of the sale or other disposition firstly, in payment of all costs and charges, if any, for removal of the vehicle to the abandoned motor vehicle site, and secondly, in payment of all costs and charges, if any, for storage of the vehicle at the site, and any surplus shall be paid to the Treasurer of Ontario. 1973, c. 94, s. 5, *part.*

Ownership

54. Where an abandoned motor vehicle is sold or otherwise disposed of pursuant to section 53, the owner or any person having a right or interest in the vehicle is divested of the ownership of or other right or interest in the vehicle and the person who has acquired the vehicle on a disposition pursuant to section 53, acquires the ownership of the vehicle free from any right or interest of any other person in the vehicle. 1973, c. 94, s. 5, *part.*

Compensation

55. Where an owner or other person having a right or interest in an abandoned motor vehicle that is disposed of pursuant to section 53 does not, acting in good faith through any cause beyond his control, receive notice of removal of the vehicle or does not otherwise acquire knowledge of such removal before the disposition and such owner or other person suffers loss as a result of such disposition, such owner or other person may apply to the Director for com-

pensation upon giving notice to the Director forthwith after becoming aware of the disposition and upon applying therefor pursuant to section 56 within six months from the date the notice of removal, if any, is served or, where no notice of removal is served, from the date of removal of the vehicle to an abandoned motor vehicle site. 1973, c. 94, s. 5, *part*.

56. A person applying for compensation pursuant to section 55 shall make application therefor to the Director in writing, setting out therein his full name and address and the particulars of his claim and shall furnish to the Director such additional information with respect to the subject-matter of the claim that the Director may require and that is within his knowledge. 1973, c. 94, s. 5, *part*. Claim for compensation

57. The Director may award compensation under section 55 in such amount and on such terms and conditions as appear just under the circumstances and shall set out his award in a certificate together with written reasons therefor and send a copy thereof to the applicant by registered mail at the address set out in the application. 1973, c. 94, s. 5, *part*. Director's certificate

58. The certificate of the Director is final at the end of thirty days from the date of mailing it to the applicant unless notice of appeal is served within that time. 1973, c. 94, s. 5, *part*. When certificate final

59. The applicant may appeal to the Board at any time before the certificate of the Director becomes final and the procedure thereon shall be the same as upon an appeal from an order of the Director under Part XI. 1973, c. 94, s. 5, *part*. Appeal

60. Where the Director has sent his certificate by registered mail to the applicant and the time for any appeal has expired or, where an appeal is taken, it is disposed of, and it is finally determined that the applicant is entitled to payment of compensation, the Director shall certify to the Treasurer of Ontario the sum found to be payable and the Treasurer shall pay such sum to the applicant out of the Consolidated Revenue Fund. 1973, c. 94, s. 5, *part*. Payment

61. Where an applicant who has received any payment out of the Consolidated Revenue Fund pursuant to section 60 recovers any moneys, directly or indirectly, from any person in respect of the loss for which the payment was made out of the Consolidated Revenue Fund, the applicant shall repay to the Treasurer of Ontario for credit to the Consolidated Recovery of moneys

Revenue Fund an amount equal to the payment out of the Consolidated Revenue Fund or the moneys received from such person, whichever is the lesser, and such amount may be recovered with costs in any court of competent jurisdiction as a debt due to the Crown. 1973, c. 94, s. 5, *part*.

PART VII

SEWAGE SYSTEMS

Interpre-
tation

62. In this Part, “sewage system” means,

- (a) a cesspool, a septic tank system, a leaching pit, a leaching bed, a privy, a privy-vault, a holding tank other than a holding tank to which regulations made under clause 44 (1) (k) or (l) of the *Ontario Water Resources Act* apply, a toilet other than a toilet to which regulations made under clause 44 (2) (a) of the *Ontario Water Resources Act* apply and any other sewage works referred to in clause 24 (6) (a) or (c) of the *Ontario Water Resources Act* or any part of any of them; or
- (b) works, installations, equipment and operations for the collection, handling, treatment, transportation, storage, processing and disposal of hauled sewage as designated in the regulations, and includes any land used in connection therewith, but does not include plumbing as defined in the regulations under the *Ontario Water Resources Act*. 1972, c. 106, s. 23, *part*; 1974, c. 20, s. 18.

Exception

63. Notwithstanding any provision of the *Ontario Water Resources Act*, a sewage system that is subject to the provisions of this Part is not subject to the provisions of the *Ontario Water Resources Act*. 1972, c. 106, s. 23, *part*.

Prohibition

64. No person shall construct, install, establish, enlarge, extend or alter,

- (a) any building or structure in connection with which a sewage system will be used if the use of the building or structure so constructed, installed, established, enlarged, extended or altered will or is likely to affect the operation or effectiveness of the sewage system; or

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(b) any sewage system,

unless a certificate of approval for the construction, installation, establishment, enlargement, extension or alteration of the sewage system has first been issued by the Director. 1972, c. 106, s. 23, *part*.

65. An applicant for a certificate of approval under this Application
Part shall submit to the Director plans and specifications of any work to be undertaken upon issuance of the certificate of approval and such other information as the Director may require and, subject to section 66, the Director may issue a certificate of approval. 1972, c. 106, s. 23, *part*.

66. The Director may,

Powers of
Director

(a) refuse to issue;

(b) suspend or revoke; or

(c) impose, alter or revoke terms and conditions in,

a certificate of approval where,

(d) the sewage system or the proposed establishment, construction, operation, installation, enlargement, extension or alteration of the sewage system does not comply with the provisions of this Act or the regulations; or

(e) he considers, upon probable grounds, that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system may create a nuisance, is not in the public interest or may result in a hazard to the health or safety of any person or impairment of the quality of the natural environment for any use that can be made of it. 1972, c. 106, s. 23, *part*.

67.—(1) No person shall use or operate a sewage system Permit
or any part thereof that has been constructed, installed, established, enlarged, extended or altered after the 15th day of April, 1974 unless a permit for its use or operation has been issued by the Director and, subject to subsection (3), the Director may issue a permit. 1972, c. 106, s. 23, *part, revised*.

Inspection

(2) Every person who has constructed, installed, established, enlarged, extended or altered a sewage system or any part thereof shall, until a permit under subsection (1) is issued, keep open for inspection or make available for inspection by a provincial officer the sewage system or the part thereof that was constructed, installed, established, enlarged, extended or altered.

Where
permit not
to be
issued

(3) The Director shall not issue a permit under subsection (1) where the construction, installation, establishment, enlargement, extension or alteration of the sewage system or part thereof does not comply with a certificate of approval issued therefor under section 64 or contravenes a provision of this Act or the regulations or, where a certificate of approval required under section 64 has not been issued, he considers, upon probable grounds, that the use or operation of the sewage system or part thereof may create a nuisance, is not in the public interest or may result in a hazard to the health or safety of any person until the construction, installation, establishment, enlargement, extension or alteration is inspected by a provincial officer and altered as the Director may require in order that the sewage system or part thereof will not, in the opinion of the Director, create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person. 1972, c. 106, s. 23, *part.*

Where
Director
may make
order

68.—(1) Where any person,

- (a) constructs, installs, establishes, enlarges, extends or alters a building or structure referred to in section 64 or a sewage system and a certificate of approval required under section 64 has not been issued;
- (b) constructs, installs, establishes, enlarges, extends or alters a building or structure referred to in section 64 or a sewage system and does not comply with any of the terms and conditions in a certificate of approval issued under section 64 in respect thereof;
- (c) does not construct, operate, clean, empty, disinfect or maintain a sewage system in compliance with the standards prescribed in the regulations; or
- (d) uses or operates a sewage system for which a permit required under section 67 has not been issued,

the Director may make such order as he considers necessary in order to lessen or prevent the deposit, addition, emission

or discharge of any contaminant into the natural environment. 1972, c. 106, s. 24; 1974, c. 20, s. 20.

(2) When a person to whom an order is directed under subsection (1) fails to comply with the order, the Minister may cause the necessary work to be done and charge such person with the cost thereof which may be recovered with costs in any court of competent jurisdiction. 1971, c. 86, s. 60 (2).

Action upon non-compliance with order

- 69.**—(1) No person shall engage in the business of,
- Where licence required
- (a) constructing on site, installing, repairing, servicing, cleaning or emptying sewage systems; or
 - (b) storing, hauling or disposing of sewage from a sewage system,

without having first obtained a licence issued by the Director.

- (2) Subject to subsection (3), an applicant for a licence who,
- Application for licence
- (a) pays the prescribed fee; and
 - (b) meets the requirements of the regulations,

is entitled to be issued such licence by the Director.

- (3) The Director may,
- Powers of Director
- (a) refuse to issue or renew a licence; or
 - (b) suspend or revoke a licence,

where the licensee is in contravention of this Act or the regulations or the licensee is in breach of any term or condition of the licence or, where the Director is of the opinion that,

- (c) the applicant or licensee or, where the applicant or licensee is a corporation, its officers or directors, is or are not competent to carry on the business that would be or is authorized by the licence;
- (d) the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of its officers or directors, affords reasonable grounds for

belief that the business that would be or is authorized by the licence will not be carried on in accordance with law;

(e) the applicant or licensee does not possess or will not have available all premises, facilities and equipment necessary to carry on the business authorized by the licence in accordance with this Act and the regulations; or

(f) the applicant or licensee is not in a position to observe or carry out the provisions of this Act and the regulations.

Idem

(4) The Director may impose, alter or revoke terms and conditions in a licence in order,

(a) to restrict the area in which a licensee may operate; and

(b) to control the method or place or both of storing, hauling, collecting, transferring and disposing of sewage from a sewage system.

Expiration
of licence

(5) A licence expires twelve months after the date of its issue or renewal.

Not
transferable

(6) A licence is not transferable. 1972, c. 106, s. 25.

Interpre-
tation

70.—(1) In this section, “municipality” means the corporation of a metropolitan area, regional area or a district area, a local municipality which is not included in a metropolitan, regional or district area, a county, a local board of a health unit or a local board of health.

Minister
may enter
into agree-
ment with
municipality

(2) A municipality and Her Majesty the Queen in right of Ontario, represented by the Minister, may enter into an agreement applicable to the whole or any part or parts of the area under the jurisdiction of the municipality providing for,

(a) the issuance by the municipality of certificates of approval pursuant to this Part;

(b) the issuance by the municipality of permits pursuant to this Part;

(c) the making of orders by the municipality pursuant to this Part;

(d) the carrying out of inspections respecting sewage systems under this Part that may be necessary or expedient,

(i) for the exercise by the municipality of such powers or duties under this Part as may be specified in the agreement, and

(ii) with respect to such applications under the *Planning Act* for consents under section 29 of that Act or for approvals of plans of subdivision under section 36 of that Act as may be specified in the agreement; or

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(e) the collection and payment or remittance of any fees payable under this Act or the regulations for any inspections that are carried out by the municipality under the agreement,

and any matter incidental thereto, and a municipality that has entered into such an agreement has all such powers as may be necessary to carry out the provisions thereof. 1973, c. 94, s. 6, *part*.

(3) Where the Minister and a municipality have entered into an agreement pursuant to this section, the municipality or the officer or employee of the municipality designated in the agreement shall be deemed to be the Director for the purpose of carrying out the provisions of this Act and the regulations applicable to the matters dealt with in the agreement. 1973, c. 94, s. 6, *part*; 1974, c. 20, s. 21.

Where
municipal
officer
may act

71.—(1) Subject to subsection (2), where an application is made for a consent under section 29 of the *Planning Act* or for approval of a plan of subdivision under section 36 of the *Planning Act*, the applicant shall pay a fee at the rate or rates prescribed by the regulations to the Treasurer of Ontario or, where an agreement is made under section 70, to the person specified in the agreement,

Where
fee
payable

(a) in the case of an application under section 29 of the *Planning Act*, for each parcel of land in respect of which the application is made; and

(b) in the case of an application under section 36 of the *Planning Act*, for each lot on the proposed plan of subdivision. 1973, c. 94, s. 6, *part*.

Exemption

(2) No fee is payable under subsection (1), in respect of,

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(a) in the case of an application for a consent under section 29 of the *Planning Act*,

(i) a parcel of land more than four hectares in area in respect of which the application is made,

(ii) a parcel of land in respect of which the application is made that is part of the land on which the owner thereof resides and from which he derives his chief source of income by farming, where no person other than the applicant and one or more members of his immediate family are parties to the transaction in respect of which the application is made,

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(iii) a parcel of land in respect of which the application is made and for which a sewage works has been approved under section 24 of the *Ontario Water Resources Act* to serve the parcel of land; or

(b) in the case of an application under section 36 of the *Planning Act*,

(i) any lot that is more than four hectares in area on the proposed plan of subdivision, or

(ii) any lot that the application states will be served by a sewage works that has been approved or in respect of which an application has been or will be made for approval under section 24 of the *Ontario Water Resources Act*,

where the applicant files with the Director an affidavit showing that he is entitled to the benefit of the exemption set out in this subsection. 1973, c. 94, s. 6, *part*; 1978, c. 87, s. 17.

Certificate of
exemption

(3) Where an affidavit is filed under subsection (2) with the Director, the Director shall cause to be prepared a certificate of exemption from the provisions of subsection (1) and cause the certificate to be delivered to the person filing the affidavit. 1973, c. 94, s. 6, *part*; 1974, c. 20, s. 22.

Consent
not to be
given until
fee paid

(4) A consent under section 29 of the *Planning Act* or an approval under section 36 of the *Planning Act* shall not be given before the fees mentioned in subsection (1) have been paid or a certificate has been delivered pursuant to subsection (3).

(5) In this section, "immediate family" means the son, daughter, son-in-law, daughter-in-law, father, mother, grandchild, grandparent, adopted son, adopted daughter, stepson, stepdaughter or a person to whom the owner stands *in loco parentis*. ^{Interpretation}

(6) In addition to any other remedy and to any penalty imposed by law, any fee due and payable under this section, ^{Recovery}

- (a) to the Treasurer of Ontario, may be recovered with costs by the Minister as a debt due to Her Majesty the Queen in right of Ontario; or
- (b) to the corporation of a metropolitan, regional or district area, a county or a local municipality, may be recovered with costs by such corporation as a debt due to such corporation,

in a court of competent jurisdiction. 1973, c. 94, s. 6, *part*.

72. Any person who, in person or through an agent, representative or employee and any such agent, representative or employee who contravenes any provision of this Part or the regulations or any order or fails to comply with any term or condition of a certificate of approval or licence issued under this Part is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1971, c. 86, s. 62; 1972, c. 106, s. 26. ^{Offences}

PART VIII

LITTER

73. In this Part, "litter" includes any material left or abandoned in a place other than a receptacle or place intended or approved for receiving such material and "littering" has a corresponding meaning. 1971, c. 86, s. 63. ^{Interpretation}

74. The Minister, for the purposes of the administration and enforcement of this Part and the regulations, may conduct research and studies in the reprocessing, reusing or degradability of packaging or containers and in the management and disposal of litter. 1971, c. 86, s. 64. ^{Powers of Minister}

75. No person shall abandon any material in a place, manner, receptacle or wrapping such that it is reasonably likely that the material will become litter. 1971, c. 86, s. 65. ^{Littering prohibited}

Subsidies
and grants

76. The Minister may make grants to persons to assist in the provision of receptacles to receive litter in such amounts and upon such terms and conditions as the regulations may prescribe. 1971, c. 86, s. 66.

Use or sale
of packaging
contrary to
regulations

77. No person shall use, offer or expose for sale or sell, for use in Ontario, any packaging, container or material for packaging or containers contrary to this Act or the regulations. 1971, c. 86, s. 67.

Offences

78. Any person, whether acting personally or through an agent, representative or employee, and any such agent, representative or employee who contravenes any provision of this Part or the regulations is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$100 and for each subsequent offence to a fine of not more than \$1,000. 1971, c. 86, s. 68.

PART IX

SPILLS

Interpre-
tation

79.—(1) In this Part,

- (a) “adverse effects” means the effects, or any of the effects, mentioned in clauses 80 (1) (a) to (h);
- (b) “discharge”, when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district;
- (d) “owner of the pollutant” means the owner of the pollutant immediately before the first discharge of the pollutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and “owner of a pollutant” has a corresponding meaning;
- (e) “person having control of a pollutant” means the person and his employee or agent, if any, having the charge, management or control of a pollutant immediately before the first discharge of the pol-

lutant, whether into the natural environment or not, in a quantity or with a quality abnormal at the location where the discharge occurs, and "person having control of the pollutant" has a corresponding meaning;

- (f) "pollutant" means a contaminant other than heat, sound, vibration or radiation, and includes any substance from which a pollutant is derived;
- (g) "practicable" means capable of being effected or accomplished;
- (h) "regional municipality" means the corporation of a metropolitan area, regional area or district area;
- (i) "restore the natural environment", when used with reference to a spill of a pollutant, means restore all forms of life, physical conditions, the natural environment and things existing immediately before the spill of the pollutant that are affected or that may reasonably be expected to be affected by the pollutant, and "restoration of the natural environment", when used with reference to a spill of a pollutant, has a corresponding meaning;
- (j) "spill", when used with reference to a pollutant, means a discharge,
 - (i) into the natural environment,
 - (ii) from or out of a structure, vehicle or other container, and
 - (iii) that is abnormal in quality or quantity in light of all the circumstances of the discharge,
 and when used as a verb has a corresponding meaning;
- (k) "substance" means any solid, liquid or gas, or any combination of any of them.

(2) A discharge of a pollutant designated by the regulations at a location designated by the regulations shall be deemed to be in a quantity or with a quality abnormal at the location. Abnormal discharge

(3) In determining what is practicable for the purposes of this Part, regard shall be had to the technical, physical and financial resources that are or can reasonably be made available. Practicable

Exception
re farming

(4) This Part does not apply to the disposal of animal wastes in accordance with normal farming practices.

Successors,
etc.

(5) A reference in this Part, other than in section 80, to an owner of a pollutant or a person having control of a pollutant includes a successor, assignee, executor or administrator of the owner of the pollutant or the person having control of the pollutant. 1979, c. 91, s. 2, *part*.

Notice to
Ministry
and others

80.—(1) Every person having control of a pollutant that is spilled and every person who spills or causes or permits a spill of a pollutant that,

- (a) causes or is likely to cause impairment of the quality of the natural environment for any use that can be made of it;
- (b) causes or is likely to cause injury or damage to property or to plant or animal life;
- (c) causes or is likely to cause harm or material discomfort to any person;
- (d) adversely affects or is likely to adversely affect the health of any person;
- (e) impairs or is likely to impair the safety of any person;
- (f) renders or is likely to render any property or plant or animal life unfit for use by man;
- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business,

shall forthwith notify,

- (i) the Ministry;
- (j) the municipality or, if the spill occurred within the boundaries of a regional municipality, the regional municipality within the boundaries of which the spill occurred;
- (k) where the person is not the owner of the pollutant and knows or is able to ascertain readily the identity of the owner of the pollutant, the owner of the pollutant; and
- (l) where the person is not the person having control of the pollutant and knows or is able to ascertain

readily the identity of the person having control of the pollutant, the person having control of the pollutant,

of the spill, of the circumstances thereof, and of the action that the person has taken or intends to take with respect thereto.

(2) The duty imposed by subsection (1) comes into force in respect of each of the persons having control of the pollutant and the person who spills or causes or permits the spill of the pollutant immediately he knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects. When duty effective

(3) The person required by subsection (1) to give notice and the owner of the pollutant shall give to the Director such additional information in respect of the pollutant, the source of the pollutant and the spill of the pollutant as may be required by the Director. Additional information to Director

(4) A member of a police force or an employee of a municipality or other public authority who is informed of or who investigates the spill of a pollutant shall forthwith notify the Ministry of the spill of the pollutant unless he has reasonable grounds for believing that such notice has been given to the Ministry by another person. 1979, c. 91, s. 2, *part*. Notice to Ministry by person investigating

81.—(1) The owner of a pollutant and the person having control of a pollutant that is spilled and that causes or is likely to cause adverse effects shall forthwith do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment. Duty to act

(2) The duty imposed by subsection (1) comes into force in respect of each of the owner of the pollutant and the person having control of the pollutant immediately the owner or person, as the case may be, knows or ought to know that the pollutant is spilled and is causing or is likely to cause adverse effects. 1979, c. 91, s. 2, *part*. When duty effective

82.—(1) Where a pollutant is spilled and the Minister is of the opinion that there are or are likely to be adverse effects as a result of the spill, the Minister, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the employees and agents of the Ministry. Directions by Minister

(2) The Minister may give directions in accordance with subsection (3) where the Minister is of the opinion that it is in the best interest of the public to do so and, Where Minister may give directions

- (a) the Minister is of the opinion that neither the person having control of the pollutant nor the owner of the pollutant will carry out promptly the duty imposed by section 81;
- (b) the Minister is of the opinion that the person having control of the pollutant or the owner of the pollutant cannot be readily identified or located and that as a result the duty imposed by section 81 will not be carried out promptly; or
- (c) the person having control of the pollutant or the owner of the pollutant requests the assistance of the Minister in order to carry out the duty imposed by section 81.

Contents of
directions

(3) Under this section, the Minister may direct the employees and agents of the Ministry to do everything practicable or to take such action as may be specified in the directions in respect of the prevention, elimination and amelioration of the adverse effects and the restoration of the natural environment.

Further
directions

(4) The Minister may give directions amending or revoking directions given under this section.

Employees
and agents

(5) No Act, regulation, by-law, order, permit, approval or licence bars the employees and agents of the Ministry from acting in accordance with directions given by the Minister under this section.

Hearing

(6) The Minister need not hold or afford to any person an opportunity for a hearing before giving directions under this section. 1979, c. 91, s. 2, *part*.

Entry and
removal

83.—(1) For the purpose of carrying out any duty imposed or order or direction made or given under this Part, any person subject to the duty or to whom the order or direction is made or given and his employees and agents, may enter and have access through or over any building, structure, vehicle, land, water or air and may construct structures and use machinery, structures, materials, and equipment therein or thereon and may remove therefrom the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant.

Enforcement
of right of
entry, etc.

(2) The rights set out in subsection (1) may be enforced by application without notice to a judge of the Supreme Court or a local judge of the High Court by a person, employee or agent referred to in subsection (1).

(3) Where the judge or local judge is satisfied, on an application under subsection (2), that there is reasonable ground for believing that it is necessary, Order by judge

- (a) to enter and have access through or over any building, structure, vehicle, land, water or air;
- (b) to construct structures or use machinery, structures, materials or equipment therein or thereon; or
- (c) to remove the pollutant or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant,

for the purpose of carrying out any duty imposed or order or direction made or given under this Part, the judge or local judge may issue an order authorizing the person and his employees and agents or any one or more of them to act as mentioned in clauses (a), (b) and (c), or any of them, but every such action shall be taken between sunrise and sunset unless the judge or local judge authorizes them or any of them to act at another time. 1979, c. 91, s. 2, *part*.

84.—(1) No person, employee or agent exercising any authority under subsection 88 (1) or carrying out any duty imposed or order or direction made or given under this Part shall dispose of or use any pollutant, or any matter, thing, plant or animal or any part of the natural environment that is affected or that may reasonably be expected to be affected by the pollutant except, Disposal of pollutant, etc.

- (a) in accordance with an order of or direction by the Minister under this or any other Act;
- (b) in accordance with a direction by or the approval of the Director, but such a direction or approval shall not be contrary to the regulations; or
- (c) in accordance with an approval, order, requirement or direction by the Director under any other Part of this Act or by a Director under any other Act administered by the Minister, but such an approval, order, requirement or direction shall not be contrary to the regulations.

(2) The Director may give to any person, employee or agent mentioned in subsection (1), and may amend or revoke, a direction or approval mentioned in clause (1) (b) and may do so notwithstanding the terms of or conditions in a certificate of approval issued under Part V in respect of a waste disposal site. Direction or approval by Director

Conditions

(3) The Director may attach such conditions as he considers necessary to an approval mentioned in clause (1) (b).

Hearing

(4) The Director need not hold or afford to any person an opportunity for a hearing before giving, amending or revoking a direction or approval referred to in clause (1) (b). 1979, c. 91, s. 2, *part*.

Orders by
Minister

85.—(1) Where a pollutant is spilled and the Minister is of the opinion that there are or are likely to be adverse effects and that it is in the best interest of the public to make an order under this section, the Minister may make an order directed to one or more of the following:

1. The owner of the pollutant.
2. The person having control of the pollutant.
3. The owner or the person having the charge, management or control of any real property or personal property that is affected or that may reasonably be expected to be affected by the pollutant.
4. The municipality or regional municipality, or both of them, within whose boundaries the spill occurred.
5. Any municipality or regional municipality contiguous to the municipality or regional municipality within whose boundaries the spill occurred.
6. Any municipality or regional municipality that is affected or that may reasonably be expected to be affected by the spill of the pollutant.
7. Any public authority.
8. Any person who is or may be adversely affected by the pollutant or whose assistance is necessary, in the opinion of the Minister, to prevent, eliminate or ameliorate the adverse effects or to restore the natural environment.

Content of
orders

(2) In an order under this section, the Minister may require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the prevention, elimination and amelioration of the adverse

effects and the restoration of the natural environment within such period or periods of time as may be specified in the order.

(3) In an order under this section, the Minister may require the doing of everything practicable or the taking of such action as may be specified in the order in respect of the use or disposal of,

Idem

- (a) the pollutant; or
- (b) any matter, thing, plant or animal or any part of the natural environment affected or that may reasonably be expected to be affected by the pollutant,

within such period or periods of time as may be specified in the order.

(4) The Minister by an order may amend or revoke an order made under this section.

Amendment or revocation of order

(5) The Minister may make an order under this section notwithstanding any Act, regulation, by-law, order, permit, approval or licence.

Effect of any Act, regulation, etc.

(6) The Minister need not hold or afford to any person an opportunity for a hearing before making an order under this section.

Hearing

(7) The Minister may direct, orally or in writing, a representative of the Ministry to give a written notice setting out an order of the Minister made orally or in writing under this section.

Notice of order

(8) An order of the Minister set out in a notice under subsection (7) is for all purposes an order of the Minister made under this section.

Effect of notice

(9) Where an order under this section or a notice under subsection (7) that sets out an order is given to an employee or agent of an employer or principal named in the order, the order shall be deemed to be given to the employer or principal.

Service of order or notice

(10) An order under this section is not effective unless it is set out in writing or is set out in a notice referred to in subsection (7). 1979, c. 91, s. 2, *part*.

Writing required

Effect of
compliance
with duty,
or order, etc.

86. A person that in good faith and in a reasonable manner, in carrying out or attempting to carry out,

(a) a duty imposed by this Part; or

(b) an order or direction by the Minister or a direction or approval by the Director under this Part,

takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action. 1979, c. 91, s. 2, *part*.

Interpre-
tation

87.—(1) In this section, "loss or damage" includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income.

Right to
compensation

(2) Her Majesty in right of Ontario or in right of Canada or any other person has the right to compensation,

(a) for loss or damage incurred as a direct result of,

(i) the spill of a pollutant that causes or is likely to cause adverse effects,

(ii) the exercise of any authority under subsection 88 (1) or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part, or

(iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;

(b) for all reasonable cost and expense incurred in respect of carrying out or attempting to carry out an order or direction under this Part,

from the owner of the pollutant and the person having control of the pollutant.

Exception

(3) An owner of a pollutant or a person having control of a pollutant is not liable under subsection (2) if he establishes that he took all reasonable steps to prevent the spill of the pollutant or if he establishes that the spill of the pollutant was wholly caused by,

(a) an act of war, civil war, insurrection, an act of terrorism or an act of hostility by the government of a foreign country;

- (b) a natural phenomenon of an exceptional, inevitable and irresistible character; or
- (c) an act or omission with intent to cause harm by a person other than a person for whose wrongful act or omission the owner of the pollutant or the person having control of the pollutant is by law responsible,

or any combination thereof.

(4) Subsection (3) does not relieve the owner of the pollutant or the person having control of the pollutant, Qualification

- (a) from liability for loss or damage that is a direct result of neglect or default of the owner of the pollutant or the person having control of the pollutant in carrying out a duty imposed or an order or direction made under this Part; or
- (b) from liability, under clause (2) (a), for cost and expense incurred or, under clause (2) (b), for all reasonable cost and expense incurred,
 - (i) to do everything practicable to prevent, eliminate and ameliorate the adverse effects; or
 - (ii) to do everything practicable to restore the natural environment,

or both.

(5) The right to compensation under subsection (2) may be enforced by action in a court of competent jurisdiction. Enforcement of right

(6) Liability under subsection (2) does not depend upon fault or negligence. Liability

(7) In an action under this section, Contribution

- (a) where the plaintiff is an owner of the pollutant or a person having control of the pollutant, the court shall determine the degree, if any, in which the plaintiff would be liable to make contribution or indemnification under subsection (8) if the plaintiff were a defendant; and
- (b) where the plaintiff is not an owner or a person having control referred to in clause (a), the court shall determine the degree, if any, in which the plaintiff caused or contributed to the loss, damage, cost or expense by fault or negligence.

and the court shall reduce the compensation by the degree, if any, so determined.

Extent of
liability

(8) Where two or more persons are liable to pay compensation under this section, they are jointly and severally liable to the person suffering the loss, damage, cost or expense but as between themselves, in the absence of an express or implied contract, each is liable to make contribution to and indemnify each other in accordance with the following principles:

1. Where two or more persons are liable to pay compensation under this section and one or more of them caused or contributed to the loss, damage, cost or expense by fault or negligence, such one or more of them shall make contribution to and indemnify,
 - i. where one person is found at fault or negligent, any other person liable to pay compensation under this section, and
 - ii. where two or more persons are found at fault or negligent, each other and any other person liable to pay compensation under this section in the degree in which each of such two or more persons caused or contributed to the loss, damage, cost or expense by fault or negligence.
2. For the purpose of subparagraph ii of paragraph 1, if it is not practicable to determine the respective degrees in which the fault or negligence of two or more persons liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense, such two or more persons shall be deemed to be equally at fault or negligent.
3. Where no person liable to pay compensation under this section caused or contributed to the loss, damage, cost or expense by fault or negligence, each of the persons liable to pay compensation is liable to make contribution to and indemnify each other in such degree as is determined to be just and equitable in the circumstances.

Enforcement
of
contribution

(9) The right to contribution or indemnification under subsection (8) may be enforced by action in a court of competent jurisdiction.

Adding
parties

(10) Wherever it appears that a person not already a party to an action under this section may be liable in respect of the

loss, damage, cost or expense for which compensation is claimed, the person may be added as a party defendant to the action upon such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties.

(11) A person liable to pay compensation under this section may recover contribution or indemnity from any other person liable to pay compensation under this section in respect of the loss, damage, cost or expense for which the compensation is claimed by settling with the person suffering the loss, damage, cost or expense and continuing the action or commencing an action against such other person.

Settlement and recovery between persons liable

(12) A person who has settled a claim and continued or commenced an action as mentioned in subsection (11) must satisfy the court that the amount of the settlement was reasonable, and, if the court finds the amount was excessive, the court may fix the amount at which the claim should have been settled.

Amount of settlement

(13) No person is liable to an action for compensation under this section unless the action is commenced within two years from,

Limitation for actions for compensation

- (a) where the person commencing the action incurred loss or damage as a result of the spill of a pollutant, the date when the person knew or ought to have known of the loss or damage;
- (b) where the person commencing the action incurred loss or damage as a result of carrying out or attempting to carry out or neglect or default in carrying out a duty imposed or an order or direction made under this Part, the date when the person knew or ought to have known of the loss or damage; or
- (c) where the person commencing the action incurred cost and expense in respect of carrying out or attempting to carry out an order or direction made under this Part, the date when the person incurred the cost and expense.

(14) Where, within the period of time prescribed by subsection (13), an action for compensation is commenced against a person liable to pay compensation under this section or a person liable to pay compensation under this section settles a claim for compensation with a person who has suffered loss, damage, cost or expense, no proceedings for contribution or indemnity against another person liable to pay compensation under this section are defeated by the operation of any Act

Limitations for actions for contribution or indemnity

limiting the time for the commencement of action against such other person if,

- (a) the proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and
- (b) there has been compliance with any Act requiring notice of claim against such other person. 1979, c. 91, s. 2, *part.*

Action by
municipality
or designated
persons

88.—(1) Where a pollutant is spilled and causes or is likely to cause adverse effects,

- (a) a municipality;
- (b) a regional municipality; and
- (c) a person or a member of a class of persons designated by the regulations,

or any one or more of them, may do everything practicable to prevent, eliminate and ameliorate the adverse effects and to restore the natural environment.

Right of
entry and
immunity
from
prosecution

(2) A municipality or regional municipality or a person or member of a class of persons designated by the regulations acting under subsection (1) or an employee or agent of any of them so acting has the rights of a person under section 83 and, if acting in good faith and in a reasonable manner, the immunity conferred on a person by section 86.

Co-operation
with others

(3) A municipality or regional municipality or a person or a member of a class of persons designated by the regulations acting under subsection (1) must,

- (a) co-ordinate efforts with;
- (b) make use of the expertise of; and
- (c) not impede,

a person carrying out a duty, order or direction under this Part.

Right to
compensation

(4) A municipality, a regional municipality or a person or member of a class of persons designated by the regulations has the right to compensation from the owner of the pollutant and the person having control of the pollutant for all reasonable cost and expense incurred in acting under subsection (1).

(5) The right to compensation under subsection (4) may be enforced by action in a court of competent jurisdiction. Enforcement

(6) Where the right to compensation under subsection (4) arises, subsections 87 (6) to (14) apply with necessary modifications. 1979, c. 91, s. 2, *part*. Application of subss. 87 (6) to (14)

89.—(1) A person, other than a person referred to in subsection (2), entitled under clause 87 (2) (b) to compensation for reasonable cost and expense has the right, subject to the conditions prescribed by the regulations, to payment of such compensation from Her Majesty in right of Ontario. Right to compensation from Crown

(2) Subsection (1) does not give a right to payment of compensation to, Application of subs. (1)

(a) the owner of the pollutant;

(b) the person having control of the pollutant;

(c) a person liable at law other than under this Part for loss, damage, cost or expense arising from the spill of the pollutant;

(d) a person that has a right under a contract to payment of the reasonable cost and expense referred to in subsection (1),

or an employee or agent of any of them.

(3) The right to payment of compensation under subsection (1) may be enforced by action in a court of competent jurisdiction. Enforcement of right

(4) Where compensation has been paid under subsection (1), Her Majesty in right of Ontario has the right to recover in the place of the person to whom the compensation was paid to the extent of the amount of the payment of compensation by and any costs of Her Majesty. Recovery by Crown

(5) Her Majesty in right of Ontario is entitled under subsection (4) to all rights of recovery whether under this Part or otherwise that the person has against any other person. Idem

(6) For the purposes of subsection (4), the payment of compensation by Her Majesty in right of Ontario under subsection (1) shall not be construed to affect the right of the person under subsection 87 (2) to compensation for reasonable cost and expense so paid by Her Majesty. Idem

Enforcement

(7) The right to compensation under subsection (4) may be enforced in a court of competent jurisdiction by Her Majesty in right of Ontario in Her Majesty's name or in the name of the person to whom the compensation has been paid.

Disentitle-
ment

(8) A person that fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before payment of compensation under subsection (1) is disentitled to the payment.

Repayment

(9) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to the payment of compensation under subsection (1), Her Majesty in right of Ontario has the right to recover the amount of the compensation paid and the right may be enforced in a court of competent jurisdiction.

Right of
insurer
under
R.S.O. 1980,
c. 218

(10) An insurer as defined in the *Insurance Act* only acquires its subrogated right of recovery under any law, including sections 129 and 242 of the *Insurance Act*, or the provisions of any contract of insurance in respect of a person to whom a payment of compensation has been made under subsection (1) when Her Majesty in right of Ontario consents in writing to a settlement in accordance with which the right of recovery is discharged or to the bringing of an action to enforce the right of recovery.

Where
consent not
obtained

(11) If an insurer referred to in subsection (10) purports to make a settlement or brings an action without the consent of Her Majesty, the insurer is liable to Her Majesty in right of Ontario in an amount equal to the amount of the payment of compensation under subsection (1) to the extent of the recovery under the judgment with respect to which the action was brought or the amount paid to the insurer in accordance with the settlement.

Effect of
release

(12) A release in furtherance of or in accordance with a purported settlement made without the consent of Her Majesty in right of Ontario is a nullity.

Withholding
of consent

(13) Her Majesty shall not unreasonably withhold the consent referred to in subsections (10), (11) and (12), but Her Majesty may attach conditions to the consent and may revoke the consent for breach of such a condition.

Conflict

(14) The provisions of this section apply notwithstanding any other law or the provisions of any contract of insurance. 1979, c. 91, s. 2, *part*.

Interpre-
tation

90. In this section and in sections 91 to 108,

(a) "corporation" means the Environmental Compensation Corporation referred to in section 99;

(b) “director” means director of the corporation;

(c) “payment” means payment referred to in subsection 91 (1) in respect of a spill of a pollutant. 1979, c. 91, s. 2, *part*.

91.—(1) Upon application, the corporation shall authorize payment in respect of a spill of a pollutant to, Corporation
to authorize
payment

(a) any person who has incurred loss or damage as a direct result of,

(i) the spill of a pollutant that causes or is likely to cause adverse effects,

(ii) the exercise of any authority under subsection 88 (1) or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part, or

(iii) neglect or default in carrying out a duty imposed or an order or direction made under this Part;

(b) any person who has incurred reasonable cost and expense in respect of carrying out or attempting to carry out an order or direction under this Part; and

(c) the owner of the pollutant and the person having control of the pollutant who are liable to pay compensation under this Part,

if such person, owner of the pollutant or person having control of the pollutant is a member of a class prescribed by the regulations and meets the conditions prescribed by the regulations.

(2) The amount of the payment that the corporation shall authorize under subsection (1) shall be calculated in the manner prescribed by the regulations, Amount

(a) generally;

(b) in respect of the class of which the person, the owner of the pollutant or the person having control of the pollutant is a member; or

(c) in respect of a class prescribed by the regulations,

(i) of spills of pollutants,

(ii) of loss or damage, or

(iii) of cost or expense.

Limit

(3) The corporation shall not authorize payment under subsection (1) in excess of a limit prescribed by the regulations or in excess of a limit calculated in the manner prescribed by the regulations and, in either case,

(a) generally;

(b) in respect of the class of which the person, the owner of the pollutant or the person having control of the pollutant is a member; or

(c) in respect of a class prescribed by the regulations,

(i) of spills of pollutants,

(ii) of loss or damage, or

(iii) of cost or expense. 1979, c. 91, s. 2, *part.*

Failure to comply with condition precedent

92.—(1) The corporation shall not authorize a payment to a person who fails to comply with or contravenes a condition prescribed by the regulations that must be complied with before the payment.

Failure to comply with condition subsequent

(2) Where a person fails to comply with or contravenes a condition prescribed by the regulations that attaches to a payment, the corporation has the right to recover on behalf of Her Majesty in right of Ontario the amount of the payment and the costs of the corporation, and the right may be enforced by action in a court of competent jurisdiction. 1979, c. 91, s. 2, *part.*

Matters to be considered by corporation

93. In assessing the amount of a payment, the corporation, except as may be prescribed by the regulations, shall take into consideration any benefit, compensation or indemnity payable to the person from any source. 1979, c. 91, s. 2, *part.*

Proposal re payment of compensation

94.—(1) The corporation shall make a proposal in respect of payment in connection with each application for payment and shall give notice of its proposal, together with written reasons therefor, to the applicant.

Investigations

(2) The corporation may cause an investigation and report to be made in respect of the performance of its function and the exercise of its powers in any matter. 1979, c. 91, s. 2, *part.*

R.S.O. 1980, c. 484 not to apply

95. The *Statutory Powers Procedure Act* does not apply to proceedings of or proposals in respect of payment by the corporation under this Part or the regulations. 1979, c. 91, s. 2, *part.*

Rights of applicant

96.—(1) An applicant for payment may accept a proposal by the corporation by notice in writing given to the corporation

within twenty days after the applicant is given notice of the proposal or, if the applicant is dissatisfied with the proposal, the applicant may apply within the twenty days to the High Court by originating notice for the determination of the right of the applicant to payment and the amount of the payment, and on such application the court, in accordance with the rules of court, may determine the right to payment and the amount or may direct the trial of the issue.

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the hearing of an application by the High Court under subsection (1) or any proceeding or appeal with respect thereto.

Minister
entitled to
be heard

(3) The corporation may extend the time for accepting a proposal by the corporation under subsection (1), either before or after the expiration of the time, where the corporation is satisfied that there are reasonable grounds for applying for the extension.

Extension
of time for
acceptance
of proposal

(4) The High Court may extend the time for applying to the High Court under subsection (1), either before or after the expiration of the time, where the High Court is satisfied that there are *prima facie* grounds for making a determination in favour of the applicant following the hearing or the trial of the issue under subsection (1) and that there are reasonable grounds for applying for the extension, and the High Court may give such directions as it considers proper consequent upon the extension. 1979, c. 91, s. 2, *part*.

Extension
of time for
application to
High Court

97.—(1) Where, in accordance with this Part and the regulations, an applicant has accepted a proposal by the corporation or has applied to the High Court and it has been finally determined that the applicant is entitled to payment and the amount of the payment has been finally determined, the corporation shall certify to the Treasurer of Ontario in the form prescribed by the regulations the amount of the payment and the person to whom it is payable and, subject to subsection (2), the Treasurer shall pay such amount to the person out of the Consolidated Revenue Fund.

Payment by
Treasurer of
Ontario

(2) The Treasurer of Ontario shall make payments under subsection (1) only during such period of time and subject to such conditions as may be prescribed by the regulations. 1979, c. 91, s. 2, *part*.

Limitation

98.—(1) Where a payment is made in accordance with a certificate of the corporation, the corporation has the right on behalf of Her Majesty in right of Ontario to recover in the place of the person to whom the payment was made to the extent of the payment and any costs of the corporation.

Recovery by
corporation

(2) The corporation is entitled under subsection (1) to all rights of recovery whether under this Part or otherwise that the person has against any other person.

Idem

Right to
recovery

(3) The payment of an amount to a person in accordance with a certificate of the corporation shall not be construed to affect the right of the person to compensation under this Part or otherwise at law.

Enforcement

(4) The right of the corporation to recover under subsection (1) may be enforced in a court of competent jurisdiction by the corporation in its name or in the name of the person to whom the payment has been made.

Right of
insurer under
R.S.O. 1980,
c. 218

(5) An insurer as defined in the *Insurance Act* only acquires its subrogated right of recovery under any law, including sections 129 and 242 of the *Insurance Act*, or the provisions of any contract of insurance in respect of a person to whom a payment has been made in accordance with a certificate of the corporation when the corporation gives its consent in writing to a settlement in accordance with which the right of recovery is discharged or to the bringing of an action to enforce the right of recovery.

Where
consent not
obtained

(6) If an insurer referred to in subsection (5) purports to make a settlement or brings an action without the consent of the corporation, the insurer is liable to the corporation in an amount equal to the amount of the payment made in accordance with the certificate of the corporation to the extent of the recovery under the judgment with respect to which the action was brought or the amount paid to the insurer in accordance with the settlement.

Effect of
release

(7) A release in furtherance of or in accordance with a purported settlement made without the consent of the corporation is a nullity.

Withholding
of consent

(8) The corporation shall not unreasonably withhold the consent referred to in subsections (5), (6) and (7) but the corporation may attach conditions to the consent and may revoke the consent for breach of such a condition.

Conflict

(9) The provisions of this section apply notwithstanding any law or the provisions of any contract of insurance. 1979, c. 91, s. 2, *part*.

Environmental
Compensation
Corporation

99.—(1) There is hereby established a corporation without share capital with the name “Environmental Compensation Corporation”.

Appointment
of directors

(2) The corporation shall be composed of not fewer than three directors who shall be appointed by the Lieutenant Governor in Council.

Term of
office

(3) The term of office of a director of the corporation is three years or until his successor is appointed and a director is eligible for reappointment.

(4) The Lieutenant Governor in Council shall designate one of the directors as chairman. Chairman

(5) A majority of the directors of the corporation constitutes a quorum. Quorum

(6) The chairman may, in writing, authorize less than a quorum of the directors of the corporation to exercise the powers of the corporation in any matter specified by the chairman. 1979, c. 91, s. 2, *part*. Conduct of business by less than quorum

100.—(1) The affairs of the corporation are under the management of its directors. Management

(2) The directors may make by-laws regulating the proceedings of the corporation, governing the exercise of its powers and generally for the conduct and management of the affairs of the corporation. By-laws

(3) Where the Minister requests in writing that the corporation make, amend or revoke a by-law and the corporation has failed to do so, the Lieutenant Governor in Council may make the by-law, amendment or revocation specified in the request. 1979, c. 91, s. 2, *part*. By-laws by Lieutenant Governor in Council

101. The powers of the corporation are, Powers

- (a) to receive and assess applications for payment in accordance with sections 90 to 108 and the regulations;
- (b) to authorize payments in accordance with sections 90 to 108 and the regulations;
- (c) to take action or commence proceedings in any case where the corporation is authorized to do so by or under any Act or law; and
- (d) to carry out such other duties as may be prescribed by the regulations. 1979, c. 91, s. 2, *part*.

102. The corporation shall pay those of its directors who are not officers in the public service of the Province of Ontario such remuneration and expense allowance as may be fixed from time to time by the Lieutenant Governor in Council. 1979, c. 91, s. 2, *part*. Remuneration of directors

103.—(1) The Corporation is an agency of the Crown. Agency

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to the corporation. 1979, c. 91, s. 2, *part*. Application of R.S.O. 1980, cc. 95, 96

104. The corporation may engage on a temporary basis the services of persons having technical or specialized knowledge to Technical assistance

advise and assist the corporation in performing its function and exercising its powers and, with the approval of the Lieutenant Governor in Council, the corporation may fix and pay the remuneration and expenses of such persons. 1979, c. 91, s. 2, *part*.

Inspectors

105.—(1) The corporation may appoint inspectors to make investigations in respect of spills of pollutants in order to assist the corporation in the performance of its function and the exercise of its powers and to carry out such additional duties as may be prescribed by the regulations.

Duties

- (2) It is the duty of an inspector appointed by the corporation,
- (a) to make investigations in respect of spills of pollutants in order to assist the corporation in assessing applications for payment received by the corporation;
 - (b) to make such other investigations in respect of spills of pollutants as may be necessary or advisable to assist the corporation to perform its function and to exercise its powers; and
 - (c) to carry out such additional duties as may be prescribed by the regulations. 1979, c. 91, s. 2, *part*.

Matters
confidential

106.—(1) Except as to information in respect of a spill of a pollutant, every director and every employee of the corporation and every person engaged or appointed by the corporation shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties or employment under this Act and shall not communicate any such matter to any other person except,

- (a) in connection with the administration of this Act and the regulations or in connection with any proceeding under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony

(2) Except in a proceeding under this Act or the regulations, no person to whom subsection (1) applies shall be required to give testimony, other than testimony in respect of a spill of a pollutant, in any civil suit or proceeding with regard to information obtained by him in the course of his duties or employment. 1979, c. 91, s. 2, *part*.

Application
of s. 140

107. Section 140 (which provides protection from personal liability) applies to the directors and the employees of the corpora-

tion and to persons engaged or appointed by the corporation in the same manner as it applies to persons described in that section. 1979, c. 91, s. 2, *part*.

108. The accounts and financial transactions of the corporation shall be audited annually by the Provincial Auditor, and reports of the audit shall be made to the corporation and to the Minister. 1979, c. 91, s. 2, *part*. Audit

109.—(1) The corporation shall make a report annually to the Minister upon the affairs of the corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Annual report

(2) The corporation, in addition to making an annual report, shall make to the Minister such other reports on its affairs and operations as the Minister may require. 1979, c. 91, s. 2, *part*. Other reports

110. Except as expressly provided in this Part, nothing in this Part limits or restricts any right or remedy that any person may have against another person. 1979, c. 91, s. 2, *part*. Right of recourse

111. The liability under this Part of farmers who are owners of pollutants or persons having control of pollutants and who are members of a class prescribed by the regulations is limited to the amount prescribed by the regulations or the amount calculated in the manner prescribed by the regulations in respect of such farmers. 1979, c. 91, s. 2, *part*. Limitation

112. This Part does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1979, c. 91, s. 6. Commencement of Part

PART X

CONTROL ORDERS AND STOP ORDERS

113. The Director may, where he is authorized by this Act to issue an order known as a “control order”, order the person to whom it is directed to do any one or more of the following, namely, Control orders

- (a) to limit or control the rate of addition, emission or discharge of the contaminant into the natural environment in accordance with the directions set out in the order;

- (b) to stop the addition, emission or discharge of the contaminant into the natural environment,
 - (i) permanently,
 - (ii) for a specified period, or
 - (iii) in the circumstances set out in the order;
- (c) to comply with any directions set out in the order relating to the manner in which the contaminant may be added, emitted or discharged into the natural environment;
- (d) to comply with any directions set out in the order relating to the procedures to be followed in the control or elimination of the addition, emission or discharge of the contaminant into the natural environment; and
- (e) to install, replace or alter any equipment or thing designed to control or eliminate the addition, emission or discharge of the contaminant into the natural environment. 1971, c. 86, s. 70.

Compliance
with control
order

114. Subject to section 122, when a copy of a control order is served upon the person to whom it is directed, that person,

- (a) shall comply with the order forthwith; or
- (b) shall, if the order sets out a future date by which it is to be complied with, comply with the order on or not later than such future date. 1971, c. 86, s. 71.

Further
order

115. The Director may, by a further order, amend, vary or revoke a control order made under this Act and in each case shall cause a copy of the order to be served on the person to whom the order so amended, replaced or revoked was directed. 1971, c. 86, s. 72.

Where
Director
proposes
to issue
control
order

116.—(1) Where the Director proposes to issue a control order, he shall serve notice of his intention, together with written reasons therefor and a copy of the report of the provincial officer or other person designated under this Act upon which the reasons are based, and shall not issue the control order until fifteen days after the service thereof.

(2) The person to whom the Director intends to issue the control order may make submissions to the Director at any time before the control order is issued. 1971, c. 86, s. 73.

Submissions
to Director

117. The Director may, where he is authorized by this Act to issue an order known as a "stop order", order the person to whom it is directed to immediately stop or cause the source of contaminant to stop adding to, emitting or discharging into the natural environment any contaminant either permanently or for a specific period of time. 1971, c. 86, s. 74.

Content of
stop order

118. A stop order shall be in writing and shall include written reasons for the order. 1971, c. 86, s. 75.

Form of
stop order

119.—(1) When a copy of a stop order is served upon the person to whom it is directed, that person shall comply with the order immediately.

Compliance
with stop
order

(2) The Director may by a further order revoke a stop order and in such case shall cause a copy of the order to be served on the person to whom the stop order was directed. 1971, c. 86, s. 76.

Revocation
of stop
order

PART XI

APPEAL BOARD

120.—(1) The Environmental Appeal Board is continued and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, who shall hold office during pleasure and none of whom shall be members of the public service in the employ of the Ministry. 1971, c. 86, s. 77 (1); 1972, c. 1, s. 69 (4); 1972, c. 1, s. 1.

Environ-
mental
Appeal
Board
continued

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Chairman
and vice-
chairman

(3) Three members of the Board constitute a quorum.

Quorum

(4) The members of the Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. 1971, c. 86, s. 77 (2-4).

Remunera-
tion

One member
may conduct
hearing

(5) The chairman may authorize one member of the Board to conduct a hearing by the Board and such member has all the powers of the Board for the purpose of such hearing.

Report

(6) The report of such member may be adopted as the decision of the Board by two other members of the Board, one of whom shall be the chairman or vice-chairman or may be otherwise dealt with as the Board considers proper.

Appointment
of staff
R.S.O. 1980,
c. 418

(7) Such employees as are required for the purposes of the Board may be appointed under the *Public Service Act*, 1972, c. 1, s. 69 (5).

When
Director
refuses
approval,
etc.

121.—(1) When the Director,

- (a) refuses to give his approval of plans and specifications;
- (b) requires a condition precedent to the giving of his approval;
- (c) refuses to issue a certificate of approval or a provisional certificate of approval;
- (d) refuses to renew a certificate of approval or a provisional certificate of approval;
- (e) suspends or revokes a certificate of approval or a provisional certificate of approval,

he shall serve notice upon the applicant or holder, as the case may be, together with written reasons therefor, and the applicant or holder may, by written notice served upon the Director and the Board within fifteen days after the service of the notice, require a hearing by the Board. 1971, c. 86, s. 78 (1).

When
Director
refuses
licence or
permit

(2) When the Director,

- (a) refuses to issue or renew or cancels or suspends a licence or permit;
- (b) imposes terms and conditions in issuing a licence or permit or certificate of approval or provisional certificate of approval; or

- (c) alters the terms and conditions of a certificate of approval, provisional certificate of approval, a licence or permit after it is issued,

the Director shall serve notice together with written reasons therefor upon the applicant or the person to whom the licence or permit or certificate of approval or provisional certificate of approval is issued, as the case may be, and the applicant or person may, by written notice served upon the Director and the Board within fifteen days after the service of the notice, require a hearing by the Board. 1971, c. 86, s. 78 (2); 1972, c. 106, s. 28.

122.—(1) A person to whom an order of the Director is directed may, by written notice served upon the Director and the Board within fifteen days after service upon him of a copy of the order, require a hearing by the Board. 1971, c. 86, s. 79 (1). Appeal of order

(2) No imposition or alteration of terms and conditions, suspension or revocation, refusal to renew or order, except a stop order shall be enforced until final disposition of an appeal, if any, or until the time for taking an appeal against the order has passed. 1971, c. 86, s. 79 (2); 1972, c. 106, s. 29, *revised*. Enforcement of order

123.—(1) A hearing by the Board shall be a hearing *de novo* and the Board may confirm, alter or revoke the order, refusal or requirement that is the subject of the hearing. Powers of Board

(2) A party to a hearing before the Board may, within thirty days after receipt of the decision of the Board, appeal on a question of law to the county court of the county or district in which is located the source of contaminant, waste disposal site or waste management system which gives rise to the hearing before the Board. Appeal to county court

(3) A party to a hearing before the Board may, within thirty days after receipt of the decision of the Board or within thirty days after final disposition of an appeal, if any, under subsection (2), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Board as to the matter in appeal as he considers in the public interest. 1971, c. 86, s. 80. Appeal to Minister

124. The person requiring the hearing, the Director and any other person specified by the Board are parties to the hearing. 1971, c. 86, s. 81. Parties to hearing

PART XII

PROVINCIAL OFFICERS

Designation
of provincial
officers

125. The Minister may designate in writing one or more officers or employees of the Ministry or other persons as provincial officers for the purposes of any section or Part of this Act or any regulation or section of any regulation relating thereto. 1973, c. 94, s. 7.

Survey by
provincial
officer

126.—(1) A provincial officer may survey from time to time anything that he has reason to believe is or may be a source of contaminant, and after completing such survey shall report his findings and his recommendations.

Report to
be sent to
Ministry
and person
responsible

(2) The provincial officer shall file his report of his findings and recommendations with the Ministry and shall serve upon the person responsible for the source of contaminant a copy thereof. 1971, c. 86, s. 83; 1972, c. 1, s. 1.

Powers of
provincial
officer

127.—(1) For the purpose of the administration of this Act and the regulations, a provincial officer may, from time to time and upon production of his designation, enter at any reasonable time any building, structure, machine, vehicle; land, water or air and make or require to be made such surveys, examinations, investigations, tests and inquiries, including examinations of books, records and documents, as he considers necessary, and may make, take and remove or may require to be made, taken or removed samples, copies or extracts. 1973, c. 94, s. 8, *part*; 1974, c. 20, s. 25.

Order
authorizing

(2) Where a justice of the peace is satisfied, upon an *ex parte* application by a provincial officer, that there is reasonable ground for believing that it is necessary to enter any building, structure, machine, vehicle, land, water or air for the administration of this Act or the regulations, the justice of the peace may issue an order authorizing a provincial officer to enter therein or thereon and to make or require to be made such surveys, examinations, investigations, tests and inquiries and to take the other actions mentioned in subsection (1) but every such entry, survey, examination, investigation, test, inquiry and other such action shall be made or taken between sunrise and sunset unless the justice of the peace authorizes the provincial officer, by the order, to so act at another time. 1973, c. 94, s. 8.

Information

(3) Every person responsible for a source of contaminant shall furnish such information as a provincial officer requires for the purposes of this Act or the regulations. 1971, c. 86, s. 84 (3).

128.—(1) Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render such assistance. 1971, c. 86, s. 85.

Calling for
assistance of
member of
police force

(2) A provincial officer, for the purpose of carrying out the provisions of this Act and the regulations, may require the driver of any motor vehicle to stop and may inspect the motor vehicle and require the driver of the motor vehicle to submit the motor vehicle, together with its equipment and any trailer attached thereto, to such examinations and tests at such place or places and time or times as the provincial officer considers expedient and where the provincial officer considers it necessary or expedient he may call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render such assistance.

Inspection
of motor
vehicles

(3) Every driver of a motor vehicle shall stop or submit the motor vehicle, together with its equipment and any trailer attached, to such examinations and tests as may be required by a provincial officer or a member of a police force referred to in subsection (2). 1973, c. 94, s. 9.

Duty of
driver of
motor
vehicle

129. No person shall hinder or obstruct a provincial officer in the lawful performance of his duties or furnish a provincial officer with false information or refuse to furnish him with information required for the purposes of this Act and the regulations. 1973, c. 94, s. 10.

Obstruction
of provincial
officer

130.—(1) Except as to information in respect of the deposit, addition, emission or discharge of a contaminant into the natural environment, every provincial officer shall preserve secrecy in respect of all matters that come to his knowledge in the course of any survey, examination, test or inquiry under this Act or the regulations and shall not communicate any such matters to any person except,

Matters
confidential

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

Testimony in
civil suit

(2) Except in a proceeding under this Act or the regulations, no provincial officer shall be required to give testimony, other than testimony in respect of the deposit, addition, emission or discharge of a contaminant into the natural environment, in any civil suit or proceeding with regard to information obtained by him in the course of any survey, examination, test or inquiry under this Act or the regulations. 1971, c. 86, s. 87.

PART XIII

ENVIRONMENTAL COUNCIL

Interpre-
tation

131. In this Part, "Council" means the Environmental Council. 1971, c. 86, s. 88.

Environ-
mental
Council
established

132.—(1) A council to be known as the Environmental Council may be established and shall consist of not fewer than seven and not more than eleven persons appointed by the Lieutenant Governor in Council, each to hold office for a term of not more than three years.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Council as chairman and another of the members as vice-chairman.

Members

(3) The composition of the Council shall be such as to provide for competent and knowledgeable persons in matters relating to the natural environment.

Vacancies

(4) Vacancies in the membership of the Council may be filled by the Lieutenant Governor in Council.

Remunera-
tion

(5) The members of the Council shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine. 1971, c. 86, s. 89.

Duties of
Council

133. The Council, through its chairman, shall,

(a) advise the Minister as to the results of current research related to,

(i) pollution, and

(ii) the natural environment ; and

- (b) consider any matter affecting the quality of the environment which the Council or the Minister deems advisable and advise the Minister thereon through its chairman. 1971, c. 86, s. 90.

PART XIV

MISCELLANEOUS

134.—(1) Where a person complains that a contaminant is causing or has caused injury or damage to live stock or to crops, trees or other vegetation which may result in economic loss to such person, he may, within fourteen days after the injury or damage becomes apparent, request the Minister to conduct an investigation.

Where
contaminant
causes
damage to
crops or
live stock

(2) Upon receipt of a request, the Minister may cause an investigation to be made and a report prepared of the findings of the investigation.

Request for
investiga-
tion

(3) A copy of the report shall be given to the claimant and to the person responsible for the source of contaminant alleged to be the cause of the injury or damage.

Report of
investiga-
tion

(4) The claimant shall permit the person responsible for such source of contaminant or his agent to view the injury or damage and to remove samples and conduct tests and examinations as may be reasonably necessary to establish the cause of the injury or damage.

Right of
person
responsible
to view
damage, etc.

(5) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chairman.

Board of
negotiation

(6) Any two members of the board of negotiation constitutes a quorum and are sufficient to perform all the functions of the board on behalf of the board.

Quorum

(7) The board of negotiation may sit at any place in Ontario.

Place of
sitting

(8) If a complainant who has requested an investigation under subsection (1) desires to have his claim for injury or damage negotiated by the board of negotiation, he shall

Notice of
amount of
claim

notify the Minister and the person responsible for the source of contaminant alleged to be the cause of the injury or damage of the amount of his claim within a reasonable time after the amount can be determined.

Notice of
negotiation

(9) If the claimant and the person responsible are not able to settle the claim within thirty days after notice of the claim is given to the Minister under subsection (8), the claimant or the person responsible may serve notice of negotiation upon the other of them and upon the board of negotiation stating that he requires a settlement of the claim to be negotiated by the board of negotiation.

Negotiation
proceedings

(10) Upon receipt of a notice of negotiation, the board of negotiation shall assess the injury or damage in respect of which the claim is made and, upon reasonable notice to the claimant and to the person responsible, shall meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the claim. 1971, c. 86, s. 92.

Consents,
notices, etc.,
as evidence

135. Any consent, notice, licence, permit, approval, order or certificate purporting to be signed by the Director or the Minister or by such officer of the Ministry as is designated in the regulations, or any certified copy, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof of the facts set out therein without proof of the signature or the official position of the person appearing to have signed it. 1971, c. 86, s. 93; 1972, c. 1, s. 1.

Regulations

136.—(1) The Lieutenant Governor in Council may make regulations,

- (a) classifying contaminants and sources of contaminants and exempting any classes from the provisions of this Act and the regulations;
- (b) prohibiting or regulating and controlling the depositing, addition, emission or discharge of any contaminant or contaminants into the natural environment from any source of contaminant or any class thereof;
- (c) prescribing maximum permissible amounts, concentrations or levels of any contaminant or combination of contaminants and any class of either of them;
- (d) prescribing methods or standards, or both, for determining the amount, concentration or level of any

- contaminant, combination of contaminants or any class of either of them ;
- (e) defining the desirable quality criteria of the natural environment ;
 - (f) classifying persons for the purposes of this Act and exempting any class from any provision thereof ;
 - (g) classifying plants, structures and things, prescribing classes thereof that shall not be constructed, altered or modified unless the plans and specifications thereof are approved by the Director, and prescribing classes thereof for which the approval of the Director as to the plans and specifications is not required ;
 - (h) prescribing the details that shall be set out in plans and specifications submitted to the Director for approval ;
 - (i) prescribing the amounts of grants and loans and the terms and conditions of such grants and loans ;
 - (j) prescribing the maximum permissible concentration or level in water of any contaminant either generally or with respect to any part of the water of Ontario specified in the regulations ;
 - (k) prescribing methods for determining the concentration or level in water of any contaminant, either generally or with respect to any part of the water of Ontario specified in the regulations, for the purposes of the regulations ;
 - (l) prescribing maximum permissible changes in temperatures of water, either generally or with respect to any part of the water of Ontario specified in the regulations ;
 - (m) prescribing fees that may be charged and collected by the Ministry for copies of documents, maps, plans and drawings supplied by the Ministry ;
 - (n) regulating the quality of fuels that may be used for heating, generating steam or electricity, for industrial

processes or for incineration. 1971, c. 86, s. 94 (1); 1972, c. 1, s. 1; 1972, c. 106, s. 31 (1); 1973, c. 94, s. 11 (1).

Regulations
relating to
Part III

(2) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) classifying motors and motor vehicles for the purpose of any regulation and exempting any class or type of motor or motor vehicle from any regulation;
- (b) regulating or prohibiting the operation in all or any part of Ontario of any class or type of motor or motor vehicle in order to lessen or prevent the emission of any contaminant into the natural environment;
- (c) requiring motors or motor vehicles or any class or type of motor or motor vehicle to have installed thereon or incorporated therein one or more systems or devices to prevent or lessen the emission of any contaminant into the natural environment, prescribing the standards and specifications of any such system or device, prescribing the standards of emission of any contaminant into the natural environment with which any such system or device shall comply and providing for testing and inspection of any such system or device;
- (d) prescribing the standards of emission into the natural environment of any contaminant by any motor or motor vehicle or any class or type of motor or motor vehicle and providing for the testing and inspection of any such motor, motor vehicle, class or type;
- (e) regulating the quality of motor fuels and additives used or intended for use in motor fuels in Ontario. 1971, c. 86, s. 94 (2).

Regulations
relating to
Part IV

(3) The Lieutenant Governor in Council may make regulations relating to Part IV,

- (a) requiring and regulating the storage, treatment and disposal of sewage in boats and ships or any class or classes thereof and the equipment therefor, and prohibiting the use and installation of equipment for the storage, treatment or disposal of sewage in boats and ships or any class or classes thereof unless the equipment and installation thereof conform to the regulations, and providing for and requiring the

approval of the Director for any such equipment, and prohibiting and regulating the discharge of sewage from such boats and ships or any class or classes thereof;

- (b) regulating and controlling, for the purpose of preventing or reducing the pollution of any water, places or any class or classes thereof located on or adjacent to any water where moorings are provided for boats or ships or where any services are provided for boats or ships or the occupants thereof, and regulating and governing persons providing such moorings or services, or any class or classes thereof;
- (c) defining sewage for the purposes of regulations made under clauses (a) and (b);
- (d) prescribing forms and providing for their use for the purposes of Part IV;
- (e) providing for the issue of permits and identification plates for ice shelters and requiring and governing their use;
- (f) regulating the placing, construction and standard of repair of ice shelters and requiring and regulating the storage, treatment and disposal of waste and requiring the approval of the Director for any equipment and things related thereto by any person or class of persons and prohibiting the placing, allowing to remain or use of an ice shelter contrary to or in a condition that is contrary to the regulations or without any equipment or facilities required by the regulations;
- (g) prescribing the dates within which ice shelters may be placed, allowed to remain or used on or over the ice over any water. 1971, c. 86, s. 94 (3); 1973, c. 94, s. 11 (2).

(4) The Lieutenant Governor in Council may make regulations relating to Part V, Regulations
relating to
Part V

- (a) designating wastes in addition to those specified in clause 24 (d), and exempting any wastes from the Part and the regulations or any provision thereof, and prescribing terms and conditions for such exemption;
- (b) classifying waste management systems and waste disposal sites, and exempting any class thereof from the Part or the regulations or any provision thereof,

and prescribing terms and conditions for such exemption;

- (c) providing for the issue of certificates of approval and provisional certificates of approval for waste management systems or waste disposal sites, or any class thereof;
- (d) governing and regulating the management of waste and prescribing standards for waste management systems and for the location, maintenance and operation of waste disposal sites, or any class thereof;
- (e) governing the location of waste disposal sites and designating parts of Ontario in which no waste disposal sites, or any class thereof, shall be established or operated;
- (f) prescribing the amounts and conditions of deposits and bonds and sureties for the purpose of section 34, and prescribing the terms and conditions upon which deposits may be returned under section 36;
- (g) prescribing the records that shall be kept by operators of waste management systems and waste disposal sites and the reports that shall be made by such operators;
- (h) prescribing the form of application and the procedure to be followed in applying for any compensation under the Part;
- (i) prescribing the rates of the fees for the disposal of any type of waste in a well that is a waste disposal site that shall be paid into The Waste Well Disposal Security Fund. 1971, c. 86, s. 94 (4); 1972, c. 106, s. 31 (2, 3).

Regulations
relating to
Part VII

(5) The Lieutenant Governor in Council may make regulations relating to Part VII,

- (a) prescribing standards for the construction, operation and maintenance of sewage systems;
- (b) prescribing standards, methods and equipment for the cleaning, disinfecting and emptying of sewage systems;

- (c) classifying sewage systems and exempting any class thereof from Part VII or the regulations or any provision thereof and prescribing terms and conditions for such exemptions;
- (d) prescribing fees for certificates of approval and permits for the use or operation of sewage systems or any class or classes thereof;
- (e) governing the location of sewage systems;
- (f) designating areas in which any class of sewage system may not be established or operated;
- (g) prescribing classes of licence holders and exempting any class from any provision of Part VII or any regulation made under this subsection, and attaching conditions to any such exemption;
- (h) prescribing the qualification of licence holders, providing for the examination of applicants for licences and prescribing the fees for such examinations;
- (i) providing for the issue and renewal of licences and the fees therefor;
- (j) prescribing the records to be kept and the returns to be made by persons to whom a licence has been granted;
- (k) prescribing fees or rates of fees payable and the procedure for payment under section 71;
- (l) prescribing qualifications of inspectors, providing for their classification, examination and certification, prescribing fees for such examination and certification and providing for the terms upon which such certification may be suspended or cancelled and prohibiting any municipality from carrying out any inspections under an agreement under Part VII except by certified inspectors;
- (m) exempting any parcel or class of parcels of land in respect of which an application for a consent is made under section 29 of the *Planning Act* from the payment of a fee under section 71. 1971, c. 86, s. 94 (6); 1972, c. 106, s. 31 (11, 12); 1973, c. 94, s. 11 (4).

R.S.O. 1980,
c. 379

(6) The Lieutenant Governor in Council may make regulations relating to Part VIII,

Regulations
relating to
Part VIII

- (a) defining standard, refillable, returnable, non-refillable or non-returnable in respect of containers and returnable or non-returnable in respect of packaging or defining any beverage for the purposes of the regulations;
- (b) requiring payment of a deposit at the time of purchase of any material or any beverage packaged or contained in any class of packaging or container and regulating the amount, terms and conditions of deposits;
- (c) requiring and regulating the stocking, display, sale or offering for sale of any beverage,
 - (i) in any class of container in relation to the stocking, display, sale or offering for sale of the beverage in any other class of container, or
 - (ii) only in a class of container that may be prescribed;
- (d) prohibiting the sale or offering for sale in Ontario of any beverage in any class of container or in or by means of a vending machine;
- (e) requiring and regulating the advertising or display of,
 - (i) the price of a beverage that is sold or offered for sale exclusive of the amount of any deposit payable on the purchase of the beverage,
 - (ii) the amount of any deposit payable on the purchase of a beverage,
 - (iii) the amount payable in return for any container,
 - (iv) copies of the regulations or portions of the regulations or a summary thereof in such form as may be prescribed by the regulations;
- (f) requiring that a notice or mark appear on any container of any beverage or on any label for any container of a beverage to indicate that the container is standard, refillable, returnable, non-refillable or non-returnable or in respect of a payment

to be made in return for the container and governing the size, form, content and position of the notice or mark;

- (g) requiring and regulating the payment of an amount in return for any packaging or container, prescribing the amount to be paid and requiring and regulating the acceptance and collection of any packaging or container by such classes of persons as may be designated by the regulations;
- (h) classifying packaging or containers or any materials or combinations of materials used as packaging or containers and classifying beverages;
- (i) exempting any person or class of persons, any beverage or any packaging or container or any material or combination of materials used as packaging or a container from any provision of Part VIII or of the regulations;
- (j) requiring, regulating and prohibiting the use, offering for sale or sale in Ontario of any packaging or container, or any material or combination of materials used as packaging or a container;
- (k) providing a schedule for the regulation and the prohibition within five years of the use, offering for sale or sale in Ontario of non-refillable or non-returnable containers for any beverage;
- (l) governing the material of the packaging or containers in any class of packaging or containers used or sold for use in Ontario;
- (m) requiring and governing the placing of receptacles to receive litter and governing the capacity, design and construction of such receptacles;
- (n) prescribing the amounts of grants to persons to assist in the provision of receptacles to receive litter, and the terms and conditions of such grants. 1971, c. 86, s. 94 (7); 1972, c. 106, s. 31 (13); 1976, c. 49, s. 1 (1).

(7) The Lieutenant Governor in Council may make regulations relating to Part IX,

Regulations
relating to
Part IX

- (a) designating persons and classes of persons for the purposes of subsection 89 (1) and prescribing limitations that shall attach to any such designation;
- (b) prescribing conditions that must be complied with by applicants for payment of compensation under subsection 90 (1) before payment of the compensation;
- (c) prescribing conditions that shall attach to the payment of compensation under subsection 90 (1);
- (d) designating discharges of pollutants and locations of discharges for the purposes of subsection 80 (2), but no discharge of pollutant or location of discharge shall be designated that is in accordance with an approval, licence, permit, order or regulation under this Act or an approval, direction, notice, order, regulation or report under the *Ontario Water Resources Act* or a licence, order, permit or regulation under the *Pesticides Act*;
- (e) classifying spills and exempting any spill or any class of spill from the application of Part IX or any section or portion of Part IX and attaching conditions to any such exemption;
- (f) prescribing any matter required or authorized by Part IX to be, or referred to in those sections as, prescribed by the regulations;
- (g) prescribing classes of or in respect of any matter that is or may be prescribed under clause (f);
- (h) limiting the application of any regulation under clause (f) to any one or more of the classes prescribed under clause (g);
- (i) classifying insurers, as defined in the *Insurance Act*, for the purposes of Part IX and exempting any class of insurers from the application of Part IX or any section or portion of Part IX and attaching conditions to any such exemption. 1979, c. 91, s. 3.

R.S.O. 1980,
cc. 361, 376

R.S.O. 1980,
c. 218

Commence-
ment of
subs. (7)

(8) Subsection (7) does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1979, c. 91, s. 6.

137.—(1) Any regulation may be general or particular in its application, may be limited as to time or place or both and may exclude any place from the application of the regulation. 1974, c. 125, s. 2. Scope of regulations

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, standard or procedure so adopted. 1971, c. 86, s. 95 (2). Adoption of codes in regulations

(3) Any class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to include within the class any specified member or members whether or not with the same attributes, qualities or characteristics. 1979, c. 91, s. 4. Classes

(4) Subsection (3) does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1979, c. 91, s. 6. Commencement of subs. (3)

138.—(1) The councils of local municipalities may, subject to the approval of the Minister, pass by-laws, Municipal by-laws

- (a) regulating or prohibiting the emission of sounds or vibrations;
- (b) providing for the licensing of persons, equipment and premises, or any of them, with respect to the emission of sounds or vibrations;
- (c) prescribing maximum permissible levels of sounds or vibrations that may be emitted;
- (d) prescribing procedures for determining the levels of sounds or vibrations that are emitted,

and such a by-law may make different provisions for different areas of a local municipality and may make provision for exempting any person, equipment or premises from any provision of the by-law for such period of time and subject to such terms and conditions as may be set out or provided for in the by-law.

(2) A by-law passed by the council of a local municipality pursuant to subsection (1) may adopt by reference, in whole or in part, with such changes as the council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, standard or procedure so adopted. Adoption of codes in by-laws

Application
of
R.S.O. 1980,
c. 302

(3) Part XIX of the *Municipal Act* applies to by-laws passed under this section. 1974, c. 125, s. 3.

Conflict

139.—(1) Where a conflict appears between any provision of this Act or the regulations and any other Act or regulation in a matter related to the natural environment or a matter specifically dealt with in this Act or the regulations, the provision of this Act or the regulations shall prevail. 1971, c. 86, s. 96.

Idem

(2) Subsection (1) does not apply in respect of section 138 and the enactment of section 138 or a by-law pursuant to section 138 does not affect the validity of an Act that is in force immediately before the coming into force of section 138. 1974, c. 125, s. 4.

Protection
from
personal
liability

140.—(1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against an employee of the Ministry, a member of the Board or of the Environmental Assessment Board or a Crown employee within the meaning of the *Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Ministry, or such member or provincial officer for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

R.S.O. 1980,
c. 418

Crown not
relieved of
liability

R.S.O. 1980,
c. 393

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1974, c. 20, s. 27.

Certificate
of analysis
as evidence

141. In any prosecution, proceeding or hearing under this Act or the regulations, the production of a certificate or report of an analyst of the Ministry as to the analysis, description, ingredients, quality, quantity or temperature of any material, whether solid, liquid or gas, or any combination of them, is *prima facie* evidence of the facts stated therein and of the authority of the person making the certificate or report without any proof of appointment or signature. 1971, c. 86, s. 97.

142.—(1) Any notice, decision or other document required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry.

Service

(2) Where service is made by registered mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 86, s. 98; 1972, c. 1, s. 1.

When service
deemed made

143. Where the Minister or the Director has authority to order or require that any matter or thing be done, the Minister may order that, in default of its being done by the person ordered or required to do it, such matter or thing shall be done at the expense of such person, and the Minister may recover the cost of doing it, with costs, by action in a court of competent jurisdiction as a debt due to the Crown by such person. 1971, c. 86, s. 99.

Enforcing
performance
of things
required to
be done

144. Where any provision of this Act or the regulations or any direction, order, approval, notice or permit, made, granted, given, served or issued by the Minister or the Director under this Act is contravened, in addition to any other remedy and to any penalty imposed by law, such contravention may be restrained by action at the instance of the Minister. 1971, c. 86, s. 100.

Power to
restrain
by action

145. No person shall knowingly give false information in any application, return or statement made to the Minister, a provincial officer or any employee of the Ministry in respect of any matter under this Act or the regulations. 1974, c. 20, s. 28.

False
information

146.—(1) Except as otherwise provided in this Act, every person, whether as principal or agent, or an employee of either of them, who contravenes any provision of this Act or the regulations or fails to comply with an order or any term or condition of a certificate of approval or a licence made or issued under this Act is guilty of an offence and on conviction is liable on a first conviction to a fine of not more than \$5,000 and on each subsequent conviction to a fine of not more than \$10,000 for every day or part thereof upon which such offence occurs or continues. 1971, c. 86, s. 102 (1); 1972, c. 106, s. 32.

Offence

Exception
when order
or program
approval
complied
with

(2) Notwithstanding subsection (1), a person to whom an order or program approval of the Minister or the Director is directed who complies fully with the order or approval shall not be prosecuted for or convicted of an offence in respect of the matter or matters dealt with in the order or approval that occurs during the period within which the order or program approval is applicable. 1971, c. 86, s. 102 (2); 1973, c. 94, s. 12.

